

2-4-2010

**Submission of Deposition Testimony by Randolph L. Dorn
07-2-02323-2-149**

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KING COUNTY, WASHINGTON

FEB 04 2010

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BY NANCY L. SLYE
DEPUTY

THE HONORABLE JOHN P. ERLICK

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

MATHEW & STEPHANIE McCLEARY,
on their own and on behalf of KELSEY &
CARTER McCLEARY, their two children
in Washington's public schools;
ROBERT & PATTY VENEMA, on their
own behalf and on behalf of HALIE &
ROBBIE VENEMA, their two children in
Washington's public schools; and
NETWORK FOR EXCELLENCE IN
WASHINGTON SCHOOLS ("NEWS"), a
state-wide coalition of community groups,
public school districts, and education
organizations,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

NO. 07-2-02323-2 SEA

SUBMISSION OF DEPOSITION
TESTIMONY BY RANDOLPH I.
DORN

The parties offer into Evidence the following deposition testimony designations and exhibits, corresponding objections and attached pages from the July 27, 2009, deposition transcript for trial witness Randolph I. Dorn:

I. Petitioners' Deposition Designations (transcript highlighted in yellow):

Cover page (page 1)

Appearances page (page 2)

In addition to the portions of the deposition transcript designated by Respondent, Petitioners designate the following:

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|--|-------------------------|
| 9:20-25 | | |
| 11:10-20 | | |
| 13:5-14:17 | | |
| 14:25-17:21 | | |
| 18:1-22 | Petitioners offer Trial Exhibit 464 (Dep. Ex. 725) | No objection |
| 22:4-23:7 | Petitioners offer Trial Exhibit 465 (Dep. Ex. 726) | No objection |
| 23:22-24:24 | | |
| 25:15-26:13 | | |
| 27:2-28:1 | | |
| 28:12-29:21 | | |
| 31:16-32:6 | | |
| 33:1-34:11 | | |
| 34:23-35:2 | | |

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|--|--|
| 35:4-37:13 | Petitioners offer Trial Exhibit 466 (Dep. Ex. 727) | Tr. Ex. 466 – Witness unable to authenticate, lack of foundation because witness never reviewed Tr. Ex. 466 (Dep. Ex. 727) Petitioners respond that this is an untimely objection inconsistent with the Joint Statement of Evidence. Respondent marked “no objection” to Trial Exhibit 466 on the Joint Statement of Evidence. It was a jointly submitted document, OSPI publication and business record. |
| | Petitioner offer Trial Exhibit 467 (Dep. Ex. 728) | No objection |
| 41:10-42:10 | | |
| 43:3-44:20 | | |
| 45:17-47:25 | | |
| 49:1-3 | | |
| 49:15-52:7 | | |
| 52:18-23 | | |

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|--|---|
| 54:17-55:17 | | |
| 59:2-22 | | |
| 60:10-61:1 | | |
| 64:10-66:3 | Petitioners offer Trial Exhibit 474 (Dep. Ex. 735) | <p>Tr. Ex. 474 - Witness cannot authenticate, lack of foundation, ER 602, ER 701, hearsay, relevance</p> <p>Petitioners respond that the document is publicly available with website source information provided; document relates to facts confirmed by witness and relevant to education reform.</p> |
| 67:14-69:6 | | |
| 74:7-75:6 | | |
| 78:12-15 | | |
| 81:20-83:2 | Petitioners offer Trial Exhibit 478 (Dep. Ex. 739) | <p>Tr. Ex. 478 - Witness cannot authenticate, lack of foundation, ER 602, ER 701, hearsay, relevance</p> <p>Petitioners respond that the article was written in 2008 and identified by the Superintendent of Public Instruction regarding school funding and education; publicly available document with website source information provided.</p> |
| 85:11-86:24 | Petitioners offer Trial Exhibit 479 (Dep. Ex. 740) | No objection |

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|--|---|
| 87:2-89:8 | Petitioners offer Trial Exhibit 480 (Dep. Ex. 741) | <p>Tr. Ex. 480 - Witness cannot authenticate, lack of foundation, ER 602, ER 701, hearsay, relevance</p> <p>Petitioners respond that this document is a release regarding the Superintendent of Public Instruction identified by the Superintendent of Public Instruction concerning education; publicly available document with website source information provided.</p> <p>87:2-89:8 – Witness did not and cannot authenticate document. Questions and testimony based on inadmissible hearsay. Lack of foundation. Resp. moves to strike.</p> <p>Petitioners respond that testimony stands on its own; the Superintendent of Public Instruction's live testimony stated and confirmed the truth of the matters inquired about; motion to strike untimely; no motion or objection made during deposition.</p> |
| 91:25-92:11 | | |
| 92:24-93:5 | | |
| 93:8-22 | Petitioners offer Trial Exhibit 482 (Dep. Ex. 743) | No objection |
| 94:9-95:18 | | |
| 96:1-97:4 | | |

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|--|---|
| 99:4-101:22 | Petitioners offer Trial Exhibit 483 (Dep. Ex. 744) | <p>Tr. Ex. 483 - Witness cannot authenticate, lack of foundation, ER 602, ER 701, hearsay, relevance</p> <p>Petitioners respond that Trial Exhibit 483 is an article written by the Superintendent of Public Instruction and identified by the Superintendent of Public Instruction regarding K-12 education; publicly available document with website source information provided.</p> <p>99:4-101:22 – Witness did not and cannot authenticate document. Questions and testimony based on inadmissible hearsay. Lack of foundation. Resp. moves to strike.</p> <p>Petitioners respond that the testimony stands on its own; the Superintendent of Public Instruction's live testimony stated and confirmed the truth of the matters inquired about; motion to strike untimely; no motion or objection made in deposition.</p> |
| 103:24-105:6 | Petitioners offer Trial Exhibit 484 (Dep. Ex. 745) | No objection |
| 105:19-106:3 | | |
| 109:4-110:24 | | |
| 114:9-115:9 | | |

| Page:Line Range | Trial Exhibit Offered | Respondent's Objections |
|--------------------|---|---|
| 119:1-122:3 | <p>Petitioners offer Trial Exhibit 493 (Dep. Ex. 754)</p> <p>Petitioners offer Trial Exhibit 494 (Dep. Ex. 755)</p> <p>Petitioners offer Trial Exhibit 495 (Dep. Ex. 756)</p> <p>Petitioners offer Trial Exhibit 496 (Dep. Ex. 757)</p> <p>Petitioners offer Trial Exhibit 497 (Dep. Ex. 758)</p> <p>Petitioners offer Trial Exhibit 498 (Dep. Ex. 759)</p> <p>Petitioners offer Trial Exhibit 499 (Dep. Ex. 760)</p> <p>Petitioners offer Trial Exhibit 500 (Dep. Ex. 761)</p> <p>Petitioners offer Trial Exhibit 501 (Dep. Ex. 762)</p> | <p>Tr. Exs. 493-501 – Relevance, lack of foundation, ER 602, ER 701. Witness was not asked to authenticate and did not authenticate documents or otherwise indicate that he had any knowledge of these documents.</p> <p>Petitioners respond that the objection to these documents is untimely and inconsistent with the Joint Statement of Evidence. Respondent marked “no objection” to Trial Exhibits 493-501 on the Joint Statement of Evidence; publicly available documents from a Washington State government website with the website source information provided in the documents.</p> |
| 123:12-124:19 | | <p>124:3-4 Calls for legal conclusion.</p> <p>Petitioners respond that the question does not call for a legal conclusion; it asks for the Superintendent of Public Instruction's belief as the Superintendent of Public Instruction.</p> |

II. Respondent's Designations (transcript highlighted in blue):

| Page: Line Range | Trial Exhibit Offered | Petitioners' Objections |
|---------------------|---|-------------------------|
| 11:21-12:6 | | |
| 18:23-19:18 | | |
| 20:14-21:1 | | |
| 23:8-21 | | |
| 28:5-11 | | |
| 29:22-30:21 | | |
| 32:7-25 | | |
| 34:12-22 | | |
| 37:14-38:10 | Resp. offers Tr. Ex. 468 (Dep. Ex. 729) | |
| 39:10-40:14 | Resp. offers Tr. Ex. 470 (Dep. Ex. 731) | |
| 40:25-41:9 | | |
| 44:21-45:15 | | |
| 48:4-25 | | |
| 49:4-14 | | |
| 55:18-58:5 | | |
| 59:23-60:5 | | |
| 66:15-67:13 | See attached Change Sheet for witness' correction | |
| 69:16-73:19 | | |
| 78:4-11 | | |
| 78:16-79:10 | | |
| 91:2-16 | | |
| 93:23-94:8 | | |

| Page: Line Range | Trial Exhibit Offered | Petitioners' Objections |
|---------------------|--|-------------------------|
| 102:4-103:23 | | |
| 107:14-21 | Tr. Ex. 591 (Dep. Ex. 3011) admitted | |
| 108:4-109:3 | | |
| 111:2-19 | Resp. offers Tr. Ex. 486 (Dep Ex. 747) | |
| 112:19-24 | | |
| 113:1-16 | | |
| 113:18-114:6 | | |
| 115:10-24 | | |
| 116:10-118:22 | | |

DATED this 20th day of October, 2009.

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SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MATHEW & STEPHANIE McCLEARY,)
on their own behalf and on)
behalf of KELSEY & CARTER)
McCLEARY, their two)
children in Washington's) No. 07-2-02323-2 SEA
public schools; et al.,)
Petitioners,)
vs.)
STATE OF WASHINGTON,)
Respondent.)

DEPOSITION UPON ORAL EXAMINATION

OF

RANDOLPH I. DORN

9:03 a.m.

July 27, 2009

600 Washington

Olympia, Washington

Margaret Walkky, CCR, RPR, RMR, CRR
Court Reporter, License No. 2540

A P P E A R A N C E S

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1 School Employees.

2 Q. Was this when you were at --

3 A. As executive director of Public School
4 Employees.

5 Q. Other than that one time, have you ever
6 given sworn testimony before?

7 A. No, I don't believe so.

8 Q. Have you ever been a party to a lawsuit,
9 you know, personally either a plaintiff or defendant,
10 not in an official capacity, but personally?

11 A. Personally had a lawsuit?

12 Q. Yes.

13 A. Yes.

14 Q. And very briefly, what was that?

15 A. Personal injury car accident.

16 Q. Were you the plaintiff or defendant?

17 A. I was the plaintiff.

18 Q. Approximately how long ago was that?

19 A. Probably about five years ago.

20 Q. Okay. Has your attorney explained to you
21 basically the deposition procedure?

22 A. Yes.

23 Q. And your attorney is Mr. Clark sitting
24 next to you?

25 A. Yes.

1 A. Yes.

2 Q. And if at any time during this deposition
3 you become tired or you want to take a break, will you
4 say so?

5 A. Yes.

6 (Exhibit-724 marked.)

7 Q. First exhibit. Handing you Exhibit-724,
8 is this the deposition notice for today's deposition?

9 A. Yes.

10 Q. (I'd like to very briefly go through your
11 background, your education, then your employment.)

12 A. Okay.

13 Q. So if you can start with high school and
14 move on to your education.

15 A. High school, Puyallup High School,
16 Puyallup, Washington; and then Olympic Community
17 College University of Idaho and my major there was
18 elementary education; PLU, master's degree in
19 administration; and then Washington State University,
20 superintendent's credential.)

21 Q. What year did you graduate from Puyallup
22 High School?

23 A. '71.

24 Q. And Olympic Community College?

25 A. Would be '72.)

1 Q. (And was that where you went there for two)
2 (years?)

3 A. Yeah, basically two, you know, one and a
4 half years and then transferred to play football at
5 University of Idaho. Then graduated from there in
6 '75.

7 Q. And then PLU, the master's in
8 administration, was that --

9 A. '81.

10 Q. Was that any particular kind of
11 administration?

12 A. K-12 principal's credential.

13 Q. That was at PLU?

14 A. Yes.

15 Q. And then the WSU, the superintendent's
16 credential, when --

17 A. Well, doctorate slash -- I didn't get a
18 doctorate. I was in their doctorate program, and
19 halfway through you get your superintendent's
20 credential.

21 Q. Right.

22 A. And then I of course went to the
23 legislature. That, I consider my doctorate program.

24 Q. People would consider it many things.
25 Approximately what year did you get your

1 superintendent credentials?

2 A. It would have been --

3 Q. Approximately.

4 A. -- about '86.

5 Q. And you mentioned football. Did you play
6 sports in high school and college?

7 A. High school and college.

8 Q. Okay. Was that important, do you believe
9 that that contributed at all to your education?

10 A. Sure.

11 Q. How?

12 A. Absolutely. How to get along with
13 different types of people and different groups of
14 people, and competition.

15 Q. If we can now briefly go through your
16 employment.)

17 A. Employment, after college?

18 Q. Yes, sir.)

19 A. Okay. I just wanted to be sure you
20 wanted, not my days in the everything else through
21 college.)

22 Q. Your summer jobs in college would be
23 interesting, but we don't have the time for that.)

24 A. No, I get it.)

25 Okay. Fifth grade and seventh grade

(1) teacher in White River schools. That would have been
(2) from five years, from '76 to '81.)

(3) Q. Where is White River?

(4) A. Buckley, Washington.

(5) And then high school principal, '81-82,
(6) Bonner's Ferry, Idaho. Then '82 to '93 would be high
(7) school principal seven years, three years elementary
(8) principal, and one year teacher in Eatonville School
(9) District. Then from '94 to 2000 was educational
(10) consultant, speaker. In 2000 to '09, would be Public
(11) School Employees executive director.

(12) Q. And right now, superintendent of public
(13) instruction?

(14) A. Superintendent of public instruction from
(15) January 14th.

(16) Q. Of '09?

(17) A. Of '09, yeah.

(18) Q. And very briefly, what was your job at PSE
(19) as executive director?

(20) A. I just did education.

(21) I probably should have thrown in '87 to
(22) '94 was a state legislator.

(23) Q. I was going to get to that.

(24) A. Okay.

(25) Q. So let's go with your executive director?

1 role at PSE. Briefly, what is that job?

2 A. The role of that job would be to ensure
3 that support personnel in schools are well represented,
4 respected in the legislature, and get legislators to
5 think of all of education being funded, you know,
6 adequately so they have reasonable wages and benefits.

7 Q. When you refer to support personnel, could
8 you give me examples of what you're talking about?

9 A. Classified support personnel would be bus
10 drivers, custodians, cooks, food service workers,
11 secretaries, custodians and para-educators.

12 Q. Why do you call them support personnel?

13 A. Because they support basically the
14 instruction of the teacher. They support teachers, is
15 what we view it as.

16 Q. Okay. Is that accurate?

17 A. Well, do bus drivers support instructional
18 personnel? Professional support personnel, we have
19 added the name professional so it adds a little more
20 credence to the importance of the people that do the
21 support work in the schools, but really it's to support
22 the whole system so it works better and kids have a
23 better environment, a safe environment, a safe
24 environment as far as food, all those kind of things.
25 Transportation, custodial maintenance is all the safe

1) environment. Computer technician, safe environment as
2) far as the internet goes, things like that.

3) Q. Is having a safe environment in schools
4) important to education?

5) A. Absolutely.

6) Q. Now let's go to '87 to '94 when you were
7) in the legislature. Could you briefly outline what you
8) did there?

9) A. Briefly, state representative out of the
10) Second District in southeast Pierce County. I was
11) on -- most of my years I was on the Education
12) Committee, I was on the Appropriations Committee and in
13) Financial Institutions and Insurance. I was the K-1
14) chair of education from '93 to '94 and probably
15) considered a senior member on appropriations in
16) '93-'94.

17) Q. And at that time frame, what did the
18) Education Committee do?

19) A. In '93, '94, we passed what was then
20) considered, was labeled House Bill 1209, which is the
21) education reform bill.

22) Q. I'll get to 1209 in a second.

23) A. I'm sure you will.

24) Q. With respect to the Education Committee in
25) the House, back then what kind of role did the

1 Education Committee serve?

2 A. It was the policy committee for
3 education. We drove the policy of education and it
4 went on to the Appropriations Committee.

5 Q. Again, then you did mention House Bill
6 1209. Could you briefly outline your role in the
7 drafting, development and enactment of House Bill 1209?

8 A. The House was probably, was considered the
9 lead on 1209 and people like Kim Perry, who was the
10 majority leader at the time, was also there, and we
11 drafted the bill out of the Blue Ribbon Commission.
12 There was findings that came out of the Blue Ribbon
13 Commission, had people like Schranz and the WPA,
14 business and lots of business leaders and a number of
15 people, and then it came to us and then we had to
16 formulate the bill and move it forward.

17 Q. And the Blue Ribbon Commission you're
18 referring to, is that different than, the same as the
19 GCERF?

20 A. GCERF, same thing. Some called it the
21 Blue Ribbon Commission, some called it GCERF.

22 Q. I was a little concerned that I thought I
23 knew a bunch of stuff and there was something else.

24 A. No, no. Yeah.

25 (Exhibit-725 marked.)

1 Q. Handing you Exhibit-725, this is a
2 printout from the OSPI web page. Could you identify
3 what this exhibit is?

4 A. It's the printout of the web page and bios
5 and what each person works on.)

6 Q. The people that are listed in Exhibit-725,
7 is that who you would consider the leadership of OSPI?
8 I'm trying to figure out, how are the people that are
9 on here chosen?

10 A. They're the cabinet members, the
11 leadership.)

12 Q. There's a quote in the upper right-hand
13 corner, you see the first off, the bottom, "ensuring
14 success of all learners," do you see that?

15 A. Yes.)

16 Q. What does "all" mean?

17 A. It means all learners, all the students in
18 the school system.)

19 Q. Does it mean each and every one?

20 A. Uh-huh.)

21 Q. Is that a yes?

22 A. Yes.)

23 Q. Going on to the Randy Dorn bio part, first
24 it refers to Superintendent Dorn then, "Works with
25 districts to ensure school buildings and buses are

1 safe." Do you see that, the second bullet?

2 A. Yes, yes.

3 Q. Could you briefly outline what types of
4 things OSPI does to ensure that school buildings and
5 buses are safe or working to do that?

6 A. Okay. Basically we have, you know, we
7 have a capital budget area where we actually do the
8 funding of capital. So building, so older buildings
9 that need to be replaced, we provide funds, matching
10 funds to replace those buildings and make them safe.

11 We do the replacement of school buses, you
12 know, once they've gotten too old and then there's a
13 match for school buses.

14 Then we do basically the funding, state
15 funding and federal funding. As it flows through the
16 state, we're the ones that do the administration of the
17 funding so they have enough funding to, you know, keep
18 things going.

19 Q. Okay, and the next bullet when it's
20 talking about the state-wide learning standards, are
21 those the essential academic learning requirements?

22 A. "Creates state-wide learning standards."
23 Those would be the standards and subject areas that
24 like math, we have state-wide standards in math, we
25 have state-wide standards in writing and we have

1 state-wide standards. So this is what you're trying to
2 get, you're making an effort to get every student to go
3 to, to those standards.

4 Q. Handing you what's been marked in a prior
5 exhibit as Exhibit-217, when you're referring to the
6 state-wide standards in like reading and math and
7 science, are these the EALRs that you were referring
8 to?

9 A. Yes, those are the EALRs. They have
10 standards.

11 Q. Okay. I just want to make sure we're
12 talking about the same thing.

13 A. Yeah.

14 Q. It goes on further, "Oversees
15 recommendations for textbooks and classroom materials."
16 Do you see that?

17 A. Yes.

18 Q. Could you briefly describe what OSPI does
19 with respect to the textbooks and classroom materials?

20 A. Basically now the State Board of Education
21 actually gives us recommendations of textbooks and then
22 we review that and then they give the final
23 recommendation. It's not that we say these are the
24 textbooks that you must use. These are the
25 recommendations we think are the best choices and we

(1) (put those out.)

2 Q. Then the last bullet when it talks about,
3 "Oversees an assessment system that monitors how
4 students are learning the state-wide standards." Do you
5 see that?

6 A. Yes, I do.

7 Q. Those state-wide standards, are those the
8 essential academic learning requirements in
9 Exhibit-217?

10 A. Yes.

11 Q. Is that currently or what in the past has
12 been called the WASL, is that the assessment that's
13 being referred to there?

14 A. In the past.

15 Q. In the past?

16 A. Well, actually even to this day, it's
17 still called the WASL. It will go away officially in
18 August and then we will replace it with a new
19 assessment.

20 Q. We'll get into the new assessment in a
21 little bit.

22 A. Uh-huh.

23 (Exhibit-726 marked.)

24 Q. Handing you Exhibit-726, can you identify
25 what this is?

1 A. This is off of our web and it's what we
2 call the five elements that I ran on in the campaign
3 that we were -- that I'm focusing on.

4 Q. What would be the general purpose of
5 Exhibit-726, would it be those elements that OSPI is
6 focusing on?

7 A. Yes. Because there's so many things in
8 OSPI, it's the five elements I'm focusing in on, and
9 then also that our cabinet has to report back on how
10 they are focusing in on these and where they, you know,
11 connect to these five major important issues.

12 Q. Would it be fair to say this is basically
13 a five-point strategic plan?

14 A. Five-point strategic plan.

15 Q. Under first point, "Fund the basic
16 education funding" says, "The findings of the Basic
17 Education Funding Task Force clearly demonstrated
18 dramatic underfunding of our public schools." Do you
19 see that?

20 A. Yes, I do.

21 Q. Is that statement true?

22 A. I believe it's true, yes.

23 Q. And then it refers to little later on,
24 "standards we are expecting of our teachers,
25 administrators and students." Do you see that?

1 A. Yes, standards.

2 Q. And then the standards we're expecting of
3 our students, those are those essential academic
4 learning requirements?

5 A. Uh-huh, yes.

6 Q. We're expecting those of all students?

7 A. Yes.

8 Q. And then it talks about standards we're
9 expecting of teachers and administrators. What kind of
10 standards are you referring to there?

11 A. Where are you at?

12 Q. Same sentence, when we are talking about
13 standards we're expecting of our teachers,
14 administrators and students, what I'm really wondering,
15 is there a separate set of standards for teachers or
16 administrators, or is that more just making sure kids
17 know the essential academic learning requirements?

18 A. Well, I would say if we expect all
19 students to get to the standards, then the expectation
20 is that's what all teachers and administrators would be
21 working towards.

22 Q. Okay. Then it goes on to say, "Washington
23 ranks 42nd in per-pupil funding (adjusted for costs of
24 living)." Do you see that?

25 A. Yes.

(1) Q. Is that statement true?

(2) A. I believe it's true.

(3) Q. Why does that matter?

(4) A. Because we have a state that has a much
(5) higher income per capita than 42nd in the nation and
(6) we've slid backwards to 42nd.

(7) Q. And where were we when you were in the
(8) legislature?

(9) A. In 1993, we were 23rd.

(10) Q. It goes on then to talk about an
(11) increasing number of our school districts are
(12) approaching financial insolvency. Do you see that?

(13) A. Yes.

(14) Q. Is it a significant number? I mean,
(15) increasing one to two would be increasing. I'm trying
(16) to get an idea of the scope.

(17) A. I would say we've moved from single digits
(18) to into double digits that we have people on watch, and
(19) we're on double digit numbering districts that are now
(20) in an area where we have to be involved with them at
(21) SPI.

(22) Q. When you say "watch," you mean on
(23) financial watch?

(24) A. Yes.

(25) Q. When you say insolvent, financial

1 insolvency, why does that matter?

2 A. Well, because they could go out of the
3 business. I just heard Detroit schools may go out of
4 business on the radio. We're concerned because we
5 don't have a process for if a school district would go
6 out of business, such as Vader, there isn't a process
7 of how to go through that.

8 Q. Vader, your reference is how there used to
9 be 296 school districts in the state, but now we have
10 only 295?

11 A. Correct.

12 Q. Vader disappeared and became assimilated
13 within another district?

14 A. Correct.

15 Q. It goes on to talk about, "Increased
16 resources for public schools are not only essential for
17 our state's financial future, but also for maintaining
18 and creating jobs or in all our communities." Do you
19 see that?

20 A. Yes.

21 Q. Could you briefly explain how increased
22 resources for public schools are essential for our
23 state's financial future?

24 A. Because I believe that a quality education
25 for all students will help build an economy out in the

future and have people educated enough to change careers and change jobs to match up with the future economies and the future job changes.

Q. Increased resources for public schools, how are they essential for maintaining and creating jobs in all our communities? The same thought?

A. Same thought. It's just I believe that if you don't have, if you're not reaching all students, you're going to have students dropping out. We don't have enough resources to, you know, do tutorials for them and to give them alternative education opportunities, and so they'll drop out and they won't have a high school education.

Q. And why does it matter if kids drop out of high school?

A. Because it shows that their economic abilities are diminished without a high school diploma.

Q. Significantly diminished or diminished?

A. Diminished.

Q. Do you know how much they have diminished?

A. Not statistically off the top of my head.

Q. Going to point two, on replacing the Washington Assessment of Student Learning, do you see that?

1 A. Uh-huh.

2 Q. I know we can go on all day, but what are
3 the fundamental problems or shortcomings with the
4 current assessments test?

5 A. Too long, strictly just paper and pencil,
6 and in talking to numerous businesses and other states,
7 by moving it onto technology it becomes a much more
8 efficient assessment system and it is more easily
9 secured because we're not moving it around, and you can
10 actually increase instruction time because you're
11 rotating students through the technology so teachers
12 continue to teach in their classroom. Those would be
13 the basics. You know, testing fatigue and things of
14 that nature go along with it. It was just too long of
15 an assessment.

16 Q. Any other major shortcomings with the WASL
17 system?

18 A. In the mathematics, I believe that there
19 was an overemphasis on the writing part versus the
20 mathematic computation part, and so that has -- we've
21 lessened the amount of writing so that students that
22 can do math but had maybe not as high skills in writing
23 weren't adversely affected.

24 Q. Any other shortcomings with the current
25 WASL testing?

(1) (A.) I think that's about it.)

2 MR. AHEARNE: Off the record.

3 (Discussion off the record.)

4 MR. AHEARNE: Back on the record.

(5) (A.) Actually, I would say, just because it's

6 going to be on the record, I would say we are

(7) following, there was a legislative task force on the

(8) WASL and most of the findings and most of the changes

(9) that we're making, we're actually following the

(10) legislative task force work group. Being a legislator,

(11) I couldn't resist.)

(12) (Q.) Point three, "Dramatically reduce the

(13) dropout rate and improve achievement for all students."

(14) Do you see that?)

(15) (A.) Yes, I do.)

(16) (Q.) Why is "all" in all caps?)

(17) (A.) Because our dropout rate is

(18) disproportionately disproportional to students of

(19) color. So "all" means all students and all income

(20) levels.)

(21) (Q.) Are dropout rates also disproportionate to

(22) income level?)

(23) (A.) Yes.)

(24) (Q.) You go on to state, "In our global

(25) economy, students who drop out of school without skills

1 will likely face a life of unemployment and poverty."

2 Do you see that?

3 A. Yes.

4 Q. Is that true?

5 A. I believe it's true.

6 Q. When you're referring to the global
7 economy, why is that significant?

8 A. Well, I mean, it's important because our
9 competition and our students compete for jobs not only
10 against the student to the left and right of them in
11 their school system, but it's also state-wide,
12 nationally, and also the jobs are being competed for
13 somebody across the Pacific, and so you have to have
14 global skills in reading, writing and math.)

15 Q. And is science included?

16 A. Science, yes.

17 Q. And is this global competition in the
18 global economy more important to a state like
19 Washington which is heavily dependent on international
20 trade?

21 A. Uh-huh, yes.

22 Q. Then it goes on, with respect to the
23 dropout rate it talks about, "Directed efforts are
24 needed to identify the passion and skills of students
25 and to engage them in meaningful learning)

1 opportunities." Do you see that?)

2 A. Yes.

3 Q. Could you give me some examples of what
4 you're referring to there with respect to the passion
5 and engaging?

6 A. Well, basically what I consider today's --
7 we have something called Navigation 101, which actually
8 is a high school guidance program that helps students
9 identify what challenges them, what their interests are
10 and what their aptitude is. Most of the time in the
11 school system, we say take these classes and you'll do
12 good. But you have to show them the connection between
13 the education and where they want to go, so they end up
14 with a career versus a job.

15 I mean, everybody can go through the
16 system and get an education, but in the end, you end up
17 with a job, and what we really want people to do is
18 match up what they're skilled at, what their interest
19 is, get the education and the training to match up what
20 they want to do so they end up with a career. I think
21 that's as important as just getting an education.

22 Q. The passion that you're referring to, is
23 that the passion for -- well, I'll just ask an open
24 question: Passion for what?

25 A. Well, the student has a passion. It's

1 what their challenge is, it's their passion. Do you
2 want to work outside, do you want to work inside? Do
3 you want to work on technology? I mean, what is your
4 passion? What challenges you, and then that moves
5 you?

6 We don't really have a good system to help
7 identify students going on to what they really want to
8 do. My comment is that a four-year college is the most
9 expensive career awareness program we have, because we
10 have kids go to college and they have no idea what they
11 want to do. That's why it takes them six years to
12 graduate, because they keep switching and don't know
13 what they want to do. If we had a better guidance and
14 decisionmaking system to help them make decisions, we
15 would be better off.

16 Q. And is another part of this with respect
17 to the passion and engagement, that if high school kids
18 are actually engaged in their school, they're less
19 likely to drop out?

20 A. That's I believe the career and technical
21 education, it's not just a dropout program, it's for
22 all kids. Career and technical education in the old
23 system was called vocational education. Now it's
24 called career education. It's applied type of learning
25 where you have applied technology courses, applied

(1) physics courses, and students are actually engaged in
(2) the class instead of just book learning. So they're
(3) actually using skills in math and science such as auto
(4) technology. You know, no longer is it auto mechanics.
(5) It's auto technology, because it's computer science and
(6) math.

(7) Q. Going to point four, "Expand career and
(8) technical education opportunities." Do you see that?

(9) A. Yes.

(10) Q. Could you briefly explain why that's
(11) important?

(12) A. Well, it's kind of what I was just kind of
(13) reiterating, is that current technical education
(14) actually I think connects kids to what they actually
(15) want to do. They actually get to apply their knowledge
(16) and they see what they want to do. When you talk about
(17) auto technology or you talk about healthcare or you
(18) talk about, you know, if it's architecture, they get on
(19) the drafting, computerized drafting. They can actually
(20) explore what they want to do and it connects them up to
(21) the business world, gives them internships and things
(22) of that nature so they really see where their learning
(23) connects them to what they want do and connects them to
(24) the real world. I mean, it puts meaning behind
(25) reading, writing, math and science.

(1) Q. Point number five, "Expand early learning
(2) opportunities." Do you see that?

(3) A. Yes.

(4) Q. And why is that important to education?

(5) A. It's important to education because a
(6) number of our kids come not prepared for kindergarten
(7) and first grade, and have less of a vocabulary when
(8) they enter school and knowledge of ABCs, numbers,
(9) things of that nature, and to get them caught up is an
(10) expense. So having a quality early learning experience
(11) is a help to that student's learning, and it's easier
(12) to mitigate learning differences in the early ages than
(13) when they get on and they have problems in reading in
(14) fifth, sixth grade.

(15) Q. Is the theory there it's easier to bring
(16) kids up to the starting line at the beginning than to
(17) try to help them catch up later on?

(18) A. Yeah, the idea is that the quality early
(19) learning programs get kids up so they start at the same
(20) level as they're moving in.

(21) Q. Same level as their more privileged
(22) compatriots?

(23) A. Not privileged. Any kid can be ready to
(24) go.

(25) Q. Better off --

1 A. But statistically, poor kids are at a
2 disadvantage statistically. There are lots of poor
3 kids that have great environments and their mom and dad
4 is there and they get their kids ready.

5 Q. It talks about early learning "improves
6 reading skills, reduces the likelihood of dropouts and
7 improves social and emotional resiliency." Do you see
8 that?

9 A. Yes.

10 Q. Is that true?

11 A. Yes.

12 Q. And it refers to Washington Learns.

13 A. Yes.

14 Q. What I just read, is that one of the
15 findings of Washington Learns?

16 A. As highlighted in Washington Learns, one
17 of the things that happened in Washington Learns is
18 they thought there needed to be more emphasis on early
19 learning, and out of Washington Learns they created the
20 Department of Early Learning. So that isn't actually
21 my responsibility now. It's more in Department of
22 Early Learning.

23 Q. But as the superintendent of public
24 instruction, that is one of the five principal points
25 that you believe are important to educating all kids in

1 our state?

2 (A.) Yes.

3 (Exhibit-727 marked.)

4 Q. Handing you what's been marked as

5 Exhibit-727, which is a five-year strategic plan for
6 the Office of the Superintendent of Public Instruction,
7 before you, '02-'07, dated April '03, does your
8 administration yet have or are they planning on having
9 a strategic plan similar to 727, printed up?

10 A. I have not seen it and I've not reviewed
11 it, so I'd have to review it before I --

12 Q. Right. Here's my real question. I
13 noticed on Exhibit-726, it looked to me like a
14 five-point strategic plan for your vision of the OSPI?

15 A. Uh-huh.

16 Q. I see that the predecessor had this
17 brochure thing, 727.

18 A. Uh-huh.

19 Q. I couldn't find a similar thing for you.
20 I don't know if it was because I was too stupid to find
21 it, whether it's not in existence yet, or whether you
22 don't plan on doing something like that at this point.

23 A. I plan on keeping stating my five major
24 goals. That's what I plan on.

25 Q. That are in Exhibit-726?

1 A. Yes.

2 Q. Exhibit-726 pretty much is your concerns,
3 your bible for what you're going to be doing?

4 A. Correct

5 (Exhibits-728 through 730 marked.)

6 Q. Handing you Exhibit-728, this has
7 "Newsroom" at the top there. Can you identify or
8 explain what Exhibit-728 is?

9 A. It would be a news release put out by the
10 office of OSPI.

11 Q. And what was the point that you were
12 making with this news release?

13 A. The principal point was we reported the
14 WASL scores just as my predecessor had, which said,
15 what it said was it up 1 percentage point, from 92 to
16 93, of 12th graders passing the reading and writing
17 WASL, and that that meant that we did 1 percent better
18 than how it was last reported. But I also reported
19 about the 31 percent that didn't make it to graduation.

20 Q. Why does that matter?

21 A. It matters because you're telling the
22 truth to the public that it's not just -- if 93 percent
23 are making it, that makes people believe that 7 percent
24 of the students are dropping out and that's not the
25 whole picture. And there's about 8 percent of students

1 per year dropping out from ninth, tenth and eleventh
2 grade, which gets you to 31 percent.

3 Q. And then on the second page of
4 Exhibit-728, there's a chart. Could you explain what
5 the significance of that chart is?

6 A. The significance of that chart is that it
7 points out the differential by basically communities of
8 color or what you would call the achievement gap, the
9 difference between Caucasians and different minority
10 groups of graduation.

11 Q. And do you believe there is a significant
12 achievement gap in our state today?

13 A. Yes.

14 Q. If I can ask you to look at Exhibit-729,
15 in 728 there are these links that you can press and
16 Exhibit-729 is what you get on the class of 2009
17 assessment overview PDF.

18 A. Uh-huh.

19 Q. Could you identify what Exhibit-729 is,
20 what the purpose of Exhibit-729 is?

21 A. The overall reason for showing this was
22 the reading and writing were doing quite well, and in
23 math is a big problem of achievement, and then also
24 again to show that we're doing basically the same as
25 we've been doing, but we're reporting it in a different

1 way to show the achievement gap and the dropout rate.

2 Q. Is Exhibit-729, is this a PowerPoint
3 presentation that OSPI gives or is it just a PDF
4 that's a document that's created in this landscape
5 format like?

6 A. This it was a PowerPoint presentation that
7 we gave at the press conference.

8 Q. That's the press conference that goes
9 along with Exhibit-728, this June 1, 2009 release?

10 A. Correct. It was given by Alan Burke.

11 Q. Then Exhibit-730, which is the document on
12 presentation materials PDF, could you explain what
13 Exhibit-730 is?

14 A. This is a chart to track the progress of
15 students on getting their graduation requirements met.

16 Q. How does it relate to or does it relate to
17 the press release?

18 A. I don't think this was related to these
19 other two. I mean, it's close, but it's another way of
20 showing it.

21 But what I guess I want to say about this
22 (indicating), this was just about '09 graduates.

23 Q. And you say, when you're referring to
24 "this," you're referring to Exhibit-729?

25 A. And, yeah, 728, okay? It's just about '09

1 graduates.

2 This (indicating) is about kind of
3 predicting 2010, 2011.

4 Q. Just so we get the "this" pronouns
5 correctly, 729 and 728 is about '09 graduates. 730 is
6 about predicting future graduates?

7 A. Correct.

8 Q. Okay.

9 (Exhibit-731 marked.)

10 Q. Handing you Exhibit-731, it appears to be
11 another press release, this one is dated July 14, 2009?

12 A. Yes.

13 Q. Could you briefly explain what additional
14 points or emphasis is being made in Exhibit-731 from
15 the release that's Exhibit-728?

16 A. At OSPI we did some restructuring to put
17 people in charge of the different goals that I had
18 and so this was to put Robert Harkins, my deputy
19 superintendent, and to increase the responsibility of
20 Erin Jones to be in charge of basically the groundwork
21 for dropout and achievement gap so we had somebody
22 responsible for the goal.

23 (Exhibit-732 marked.)

24 Q. Handing you Exhibit-732, could you briefly
25 identify what this is?

(1) A. The title is Graduation and Dropout
(2) Statistics for Washington in 2007-'08.)

(3) Q. And Randy Dorn in the lower left-hand
(4) corner, that's you, correct?

(5) A. Correct.)

(6) Q. The data that's in Exhibit-732, is this
(7) the backup data on dropout statistics and graduation
(8) rates that are supporting your position from these
(9) prior exhibits?

(10) A. Yes.)

(11) Q. Are these the kinds of things that now are
(12) going to be the responsibility of Robert Harkins and
(13) Erin Jones to follow up on?

(14) A. Yes, yes.)

15 (Exhibit-733 marked.)

16 Q. Handing you Exhibit-733, it's a report to
17 the legislature with findings and recommendations of
18 the Gangs in Schools Task Force dated December '08,
19 which is before your term. Do you see that?

20 A. Uh-huh, yes.

21 Q. Do you know what the Gangs in Schools Task
22 Force is or whether it's planning on having a continued
23 existence?

24 A. I don't have any personal knowledge of it.

(25) Q. Sitting here today, do you think gangs in)

1 schools are a significant issue in the schools in the
2 State of Washington?

3 A. I had a conversation about two weeks ago
4 with Attorney General Robb McKenna and we've had a
5 discussion about working together on the issue, but it
6 hasn't gone any farther than that. He has some
7 concerns about it on a legal side and I have a concern
8 about it on a dropout side, so we are going to continue
9 to talk.

10 Q. What's your concern about gangs in school
11 on the dropout side?

12 A. That it contributes to it.

13 Q. How?

14 A. Gangs recruit kids so it gives them
15 another option from school.

16 Q. Switching gears a little here, one of the
17 beauties of iPods and iCasts and TVW, et cetera, is
18 everything is recorded these days so I've got some
19 follow-up questions on comments that you've made along
20 the lines, going back to first in October of '08, you
21 were on a Seattle channel with Bergeson and you were
22 being interviewed, and you made a comment along the
23 lines of, "We have 40 percent of students going on to
24 college to take remedial math." Could you explain what
25 you were referring to with respect to remedial math?

1 A. Well, when you say remedial, I guess it
2 depends on every individual university, on what their
3 cut line is for college, but if you take 100 percent of
4 your students going on to college and how many have to
5 have support to meet college, about at least a third of
6 them usually have to have some assistance in getting to
7 the standard.

8 Q. Are these kids who have graduated from
9 schools in Washington?

10 A. Correct.

11 Q. You also referred "to a great score card
12 by the League of Education Voters." Is that that
13 pamphlet they put out?

14 A. Yeah. Yes, yes.

15 Q. Why do you refer to it as "a great score
16 card"?

17 A. "A great score card," because I'm sure I
18 was being sarcastic.

19 Q. How were you being sarcastic, in the
20 quality of the score card or the grades that were being
21 given?

22 A. The grades that were given because I
23 believe they had three Ds and two Cs. There were five.

24 Q. Are Ds acceptable?

25 A. No, we're supposed to get everybody to

1 grade level. So I would consider C grade level and
2 doing average. So we were doing three below average.

3 Q. At the Senate early learning hearing on
4 January 19 of this year you made a comment along the
5 lines of, "The number one primary paramount duty you
6 have is to fund education. It doesn't mean kind of
7 number one, close to the top. It means beyond the top
8 and out in front of everything else that you look at.
9 That has to be your number one priority." Do you
10 recall saying something along those lines?

11 A. Yes.

12 Q. Do you believe that?

13 A. Yes.

14 Q. Where does that paramount duty come from?

15 A. The constitution.

16 Q. You're referring to Article IX, section 1?

17 A. I believe that's the one that refers to
18 that, yes. I don't have it memorized.

19 Q. The line that says, "It is the paramount
20 duty of the state to make ample for the provision for
21 the education of all children residing within its
22 borders"?

23 A. Yes.

24 Q. The Seattle City Club interview on
25 February '09 you made a comment along lines, "We're in

(1) a 20th century funding situation and we moved to a 21st
(2) century school system." Could you sort of flesh out
(3) what your point is there or why it's significant?

(4) (A.) I believe we moved from, in the 1970s we
(5) funded basic education on seat time, and then we got to
(6) 1993 and we were trying to shift to what you know.

(7) (Q.) That's House Bill 1209?

(8) (A.) Uh-huh, yes.

(9) (Q.) And the "what you know," are those the
(10) skills and knowledge that are in these four numbered
(11) provisions on Exhibit-217, read with comprehension,
(12) know and apply core concepts, et cetera?

(13) (A.) Those would be the four goals, yes, and
(14) they've been since 1993, they were adjusted a little
(15) bit, but pretty much basically the same.

(16) (Q.) When you referred to 1993, we changed from
(17) seat time to focusing on what you know, is the
(18) knowledge and skills that you know the basic knowledge
(19) and skills that are in these four numbered provisions?

(20) (A.) Correct.

(21) (Q.) What's the reference, though, to the 20th
(22) century versus the 21st century?

(23) (A.) It's more on style of teaching and we're
(24) still in rows, a lot of memorizing things, instead of
(25) moving to problem solving and creative thinking, and

1 kind of goal number 3, think analytically, logically,
2 creatively and integrate different experiences and
3 knowledge to form reasoned judgments and solve
4 problems. We're still in just kind of the cognitive
5 realm. We need to move forward on how to use things
6 and how to be learners the rest of your life and solve
7 problems. That's how we make a difference in the 21st
8 century.)

9 Q. In part also with the 21st century, you've
10 made comments along the lines of with respect to how
11 schools have changed with respect to computers and the
12 internet and things like that. Back in the '70s when
13 you were referring to the seat time, et cetera, did we
14 have the computers and the technology that we had have
15 today?

16 A. No.)

17 Q. And the funding formulas that the state
18 uses today, do they take account of the changes in
19 technology that we live in or we have in today's world?

20 A. The changes in technology funding, what
21 the legislature did is they allowed local districts to
22 do six-year levies for technology. So the state has
23 not taken upon itself that responsibility.

24 Q. So at least the way it stands now is the
25 state allows local districts to raise money for

1 technology?

2 A. Correct.

3 Q. But the state does not fund technology?

4 A. Correct.

5 Q. You also made a comment about,

6 "Fortunately we have little help coming from the
7 federal government, but that will just be a bridge. It
8 will not solve the problem." The money from the
9 federal government, is this the stimulus money you were
10 referring to?

11 A. Yes.

12 Q. And what do you mean by it's going to be a
13 bridge, but it won't solve the problem?

14 A. Well, with the downturn in the economy, we
15 have filled the gap of keeping schools at approximately
16 the same level we're at, say, a year ago and then when
17 that money goes away, we will have to figure out a way
18 to fill that gap or rebuild that bridge. I don't think
19 the money will be there and then we'll have to have
20 state money.

21 Q. And when you've talked about the paramount
22 duty, you know, it's not average, not sort of. It says
23 ample, and you give an example about ample water supply
24 versus average water supply. Could you sort of flesh
25 out how that relates to ample?

(1) (A.) Well, I just asked a group of fifth
(2) graders if they were the mayor of a town, would they
(3) want an adequate water supply or would they want an
(4) ample water supply, and they all pretty much agreed
(5) they would want ample over adequate because they all
(6) thought that was more.

(7) Q. And do you think that ample is more than
(8) just adequate?

(9) A. Yes, I do.

(10) MR. CLARK: Calls for a legal conclusion,
(11) objection.

(12) Q. I'm not asking for a legal conclusion.

(13) A. Okay.

(14) Q. The answer was?

(15) A. The answer is I think ample is more than
(16) adequate.

(17) Q. This is still in the Seattle City Club
(18) interview, you said, "We have underfunded schools.
(19) There's no doubt in my mind, we have underfunded
(20) schools." Today do you believe the state is
(21) underfunding our public schools?

(22) A. Yes.

(23) Q. Do you have any doubt in your mind about
(24) that?

(25) A. No.

1 Q. You note that we're third in the nation in
2 class size. Is that third best or third worst?

3 A. We have the third highest class size.

4 Q. Why does class size matter, if at all?

5 A. You know, that's debated. I think the
6 public has a more view of that being bad. I think
7 it's -- I'm not convinced that that is the determining
8 factor of student learning. I think it might have a
9 part to play, but I'm not convinced it's as huge a
10 factor as people have either thought it is or could
11 be.

12 I've been to other countries where there's
13 very large class sizes, larger than I can even
14 imagine. They seem to be doing quite well. So I --
15 it's something that politically has been very much in
16 the public and the public has a very positive feel
17 about lowering class size.

18 Q. Okay. You also make a comment about, "We
19 don't need another study to tell us we're underfunding
20 education. We all know that." When you say "another
21 study," there have been prior studies?

22 A. Well, yeah, there's been Washington
23 Learns. There's been What Will It Take? by the WEA.
24 And then there was the basic ed funding study. So I
25 don't really think there should be another study.

Q. And the three studies you referred to, those all confirmed that we're underfunding education?

A. Yes.

Q. Going back to the Senate early learning, this time, in K-12, your testimony on House Bill 2261, you say that, "Ample is the key word. It's not just adequate, it's ample basic ed funding and that's why we're here." To you, what's the significance of that "ample" word?

A. Ample is you're doing above average, you're doing better than average, and I think I made the statement, possibly in that, is that I'm not striving to be in the top 10. I would just like to be number 25 or be number 24 in per pupil funding.)

Q. You had some handouts, which I'll confess, I wasn't able to find, but you say that, you're referring to a blue handout and you say, "When you compare what we found compared to what districts expend, it's shocking to me how many districts are paying with levy funds to support basic education." Do you recall saying something along those lines?

A. Yes.

Q. And are school districts now using their local levy funds to support basic education?

MR. CLARK: Object to the form of the

(1) question.

(2) A. Yes. What I would say is that like when
(3) we talk about NERC -- I don't have to explain NERC, do
(4) I?

(5) Q. No, sir.

(6) A. NERC, the school districts are using their
(7) levies to pay for NERC and that's the basic operation
(8) of a school, I believe.)

(9) Q. And the NERCs are things like utilities,
(10) insurance, textbooks, things like that?

(11) A. Correct.

(12) Q. You make a comment in your testimony that,
(13) "46 districts have less from the state for all NERC
(14) expenses than they pay for utilities and insurance
(15) alone. That means the district has not received enough
(16) money to buy even one textbook, one library book,
(17) supplies such as paper, pens and copying expenses." Do
(18) you recall saying something along those lines?

(19) A. Correct.

(20) Q. Is that the situation we're in today?

(21) A. Of those 46 districts, yes.

(22) Q. With respect to the remaining districts in
(23) the state, does the state fully fund all of the NERC
(24) expenses that those districts have?

(25) A. I don't know statistically right off the

1) (top of my head.)

2) Q. You refer to, "The state funds textbook
3) replacement so the curriculum can be turned over every
4) 18 years." Is that correct?

5) A. Yes.

6) Q. Why does that matter?

7) A. Because curriculum changes in this society
8) and changes dramatically, and so we recommend seven to
9) eight years is a curriculum change.)

10) Q. And when you say "we," you mean the
11) Office --

12) A. The state, OSPI.)

13) Q. That's the Office of the Superintendent of
14) Public Instruction?

15) A. Correct.)

16) Q. You went on to say, "The state only pays
17) 66 percent of basic costs for pupil transportation.
18) That doesn't include any extracurricular activities.
19) This is just to-and-from transportation." Do you
20) recall saying that?

21) A. Yes.)

22) Q. When you say "to-and-from transportation,"
23) is that to and from school?

24) A. Well, basically from home to school.)

25) Q. And then from school back home?

1 A. Correct.

2 Q. Is it true the state only pays 66 percent
3 of the basic costs for to-and-from transportation?

4 A. That would be state-wide because it
5 differs from district to district. There are a few
6 districts that get more and there's a number of
7 districts that get considerably less.

8 Q. And how long has the state known that they
9 are paying only about 66 percent state-wide of
10 transportation costs for school districts?

11 MR. CLARK: Object to the form.

12 A. I don't know that answer. I don't know
13 that answer.

14 Q. Do you believe it's been a while?

15 MR. CLARK: Object to the form.

16 A. Again, I don't know. I wouldn't be able
17 to judge.

18 Q. Do you know approximately how much a year
19 the state is underfunding the to-and-from
20 transportation for school districts?

21 A. For a biennium, it's \$250 million.

22 Q. So about --

23 A. 125 million a year.

24 Q. I'm now moving to a May Inside Olympia
25 interview that you and Dan Grimm gave, and you

1 all the talking in the second half.

2 A. Because I never did.

3 Q. That's what it was.

4 A. I'm sure I did the interview with Austin
5 Jenkins on it, just that Dan Grimm wasn't there.
6 That's all.

7 Q. That fully explains why, because I was
8 wondering why you were noncharacteristically silent
9 through the whole second half.

10 Well, going back to my question, though,
11 you made a reference to the nonemployee expenditures,
12 the NERCs, like heating, insurance, copying machines,
13 paper, et cetera, being underfunded by \$500 million,
14 ballpark figure. Do you know off the top of your head,
15 is that \$500 million a biennium or a year?

16 A. No, a biennium.

17 Q. So it's \$250 million a year the state
18 currently is underfunding the NERCs for school
19 districts?

20 A. Yes.

21 Q. Last one on this list, I'm looking at a
22 June 18, '09 press conference that you had. Actually,
23 this is one with Alan Burke on the WASL results, and
24 you made a comment that, "If you look at early
25 indicators of whether they're going to drop out or not,

(1) we probably have those indicators in first and second
(2) grade. So that's why early childhood education is
(3) actually a connector to dropout 12 years later." Do
(4) you recall saying something along those lines?

(5) A. Yes.

(6) Q. Could you flesh out a little bit about the
(7) connection between early learning and then the dropout
(8) prevention that you're referring to?

(9) A. The students that come to us that have
(10) challenges in reading, that usually they're low in
(11) vocabulary, and statistically it's from poverty and
(12) that they have a more difficult time. Because of less
(13) vocabulary, they have a more difficult time reading.
(14) Students that have a difficult time reading, it follows
(15) it through, and when they hit ninth grade and they have
(16) a difficult time reading more complicated textbooks,
(17) they get frustrated and they drop out.

(18) Q. You also made a reference to the Race to
(19) the Top money and Navigation 101. Can you briefly
(20) explain the connection between the Race to the Top
(21) money and how Navigation 101 does or doesn't correlate
(22) there?

(23) A. Race to the Top money is money that the
(24) Secretary of Education is putting out there for
(25) innovation, dropout or low performing schools,

1 longitudinal data and teacher improvement, and
2 Navigation 101 is one of the 12 or so areas we're
3 looking at that taking, it's not state-wide program, so
4 again it's in the ninth to twelfth grade, where every
5 teacher becomes a guidance person, has a relationship
6 with students and follows that student through high
7 school so they make a connection to an adult. And it's
8 a program that helps kids make decisions on, you know,
9 career decisions and decisions on what they want to do
10 in their life and what challenges them, their interests
11 and their aptitude so they have a better idea of what
12 they're skilled at, and a better idea of what jobs and
13 careers are available to them. And so we're looking at
14 funding to take that state-wide, that that might be one
15 of the elements of Race to the Top grant.)

16 Q. Has the state followed through with that
17 approach or that attempt to try to --

18 A. We haven't -- just Friday was the release
19 of the first draft of the grant proposal for the feds
20 to give us the grant policy.)

21 Q. So that's something that's in the works
22 right now?

23 A. Correct.

24 Q. And you mentioned a relationship or a
25 connection with the adult in the school as being part

(1) of Navigation 101.)

(2) (A.) Yeah.

(3) (Q.) Is it important for students to have a
(4) connection with an adult in the school?

(5) (A.) I believe the answer is yes to that, to
(6) have a relationship with a caring adult is extremely
(7) important for students.)

(8) (Q.) Why?

(9) (A.) Because it proves that somebody cares
(10) about them, and if that person has a positive belief
(11) about education, it helps them stay in school.)

(12) (Q.) Helps the kid stay in school?)

(13) (A.) Yes.

(14) (Q.) Near the end of that press conference you
(15) referred to 2261, it says, "I think that was the first
(16) move to recognize that we are not funding schools at an
(17) adequate level and we're not meeting our constitutional
(18) obligation." Do you recall saying something along
(19) those lines?

(20) (A.) Yes.

(21) (Q.) How is 2261 a recognition that the state
(22) not adequately funding public schools?)

(23) (A.) Because it puts in the prototypical school
(24) and how it should be funded and how it should be
(25) staffed, and it puts in a time line that you should

1 have the funding to this level done by 2018.)

2 Q. And how is 2261 a recognition the state is
3 not currently meeting its constitutional obligation?

4 A. Because it increases the staffing of
5 schools.)

6 Q. And when you refer to constitutional
7 obligation, that's the paramount duty clause?

8 A. Correct.

9 Q. And today do you believe the state is
10 amply providing for the education of all students in
11 Washington?

12 MR. CLARK: Object to the form of the
13 question. It calls for a legal conclusion.

14 A. You'd have to say the question again.

15 Q. Sure.

16 Today do you believe the state is amply
17 providing for the education of all students in
18 Washington.

19 MR. CLARK: Same objection.

20 A. I would say we're having a difficult time
21 through these economic times of providing adequate
22 education because we taken a down tick in the last
23 year.

24 Q. Today do you believe we are?

25 A. No.

1 MR. CLARK: Are what?

2 Q. Today do you believe the state is amply
3 providing for the education of all Washington students?

4 MR. CLARK: Object to the complete
5 question.

6 A. I don't believe we are.

7 Q. Under 2261, do you believe that by 2018
8 the state will be amply providing for the education of
9 all students?

10 MR. CLARK: Same objection.

11 A. If the legislature fulfills its obligation
12 in that law and also finds the funding source. Okay, I
13 think that's key. I don't think you can do it out of
14 existing systems. So they would have to find a funding
15 source. Then I believe you could get to adequate or
16 ample funding of education, but they also have to find
17 a funding source for revenue to go to education.

18 Q. Okay, and with respect to 2261, that was
19 enacted by the 2009 legislature, correct?

20 A. Correct.

21 Q. And can the 2010 legislature change 2261?

22 A. Correct, yes, it can.

23 Q. So the '09 legislature cannot bind future
24 legislatures, can it?

25 A. That's a good question. Initiatives can

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1 bind them, but then they can change it. So, you know,
2 I mean, yeah, the legislature can change it anytime
3 they want to, but they can definitely make it more
4 difficult to change it, because once it's on the books,
5 it's always more difficult to repeal it.

6 MR. AHEARNE: I'm at a breaking point.

7 MR. CLARK: Why don't we take a morning
8 break.

9 (Brief recess.)

10 Q. Going through a lot of these transcripts
11 and everything, I see a quote you often make along the
12 line of, "Our kids won't get a second chance at an
13 education while we adults wait for the economy to
14 improve." Could you flesh out what you're getting at
15 with that point?

16 A. Well, I think it's time to move forward on
17 21st century education, and the longer we wait, there
18 are kids in the system that, you know, aren't getting
19 the services that they need. So I just don't want to
20 wait until the economy -- we were told on 2261 that we
21 had to wait, you know, because the economy needed to
22 turn around or whatever, and I just felt like this is
23 the best time to move forward and get it started.

24 Q. Every year we wait, we lose one graduating
25 class?

1 A. Correct.

2 Q. We'll bring back some memories from the
3 past.

4 (Exhibit-734 marked.)

5 Q. Handing you Exhibit-734, which is a
6 Seattle Times article from April of 1993, you see at
7 the bottom of page 1, there's a quote, "'This is
8 taking education and making it better,' said
9 Representative Randy Dorn, a Democrat from Eatonville,
10 who sponsored the measure. 'This bill is about
11 accountability and higher standards.'" Do you see
12 that?

13 A. Yes.

14 Q. Is the bill you're referring to there
15 House Bill 1209?

16 A. I need to read a little bit more before
17 I --

18 Q. Please do.

19 A. Yes, it is.

20 Q. Again, when you said the bill is about
21 accountability and higher standards, what is the
22 accountability and what are the higher standards you
23 were referring to in House Bill 1209?

24 A. Well, there was a section in it that had
25 that we would address accountability, and actually

1 out, or just never was part?

2 A. I don't know if it ever dropped out. I
3 don't have that information, that they actually
4 repealed it. But in today's practice, if you don't
5 make fourth grade reading, writing and math standards,
6 still you're moving to the next grade.

7 Q. You still move up to fifth?

8 A. Usually, yes.

9 (Exhibit-735 marked.)

10 Q. Handing you Exhibit-735, it's your April
11 1993 Seattle Times articles. Counting six paragraphs
12 down, it states, "Under the reform plan, the entire
13 public school system will stop grading students on a
14 curve and advancing them to higher grades without some
15 proof that they've actually learned something." Do you
16 see that?

17 A. Yes.

18 Q. The reform plan referred to here, is this
19 House Bill 1209 again?

20 A. Say that again?

21 Q. The reform plan that's being referred to
22 here, is that House Bill 1209 again?

23 A. Yes.

24 Q. What do you mean by stop grading on a
25 curve?

1 A. Well, the curve is basically you have a
2 third below average, a third in the middle and about a
3 third above average. And we were trying to get, the
4 idea of reform is trying to get all students up to
5 grade level.

6 Q. To actually know what they're supposed to
7 know at that grade level as opposed to being in the
8 middle?

9 A. The goal was to get students having the
10 capability to get up to grade level, that meet the
11 expectations of the grade level.

12 Q. The expectations?

13 A. Standards and EALRs.

14 Q. Essential academic learning requirements?

15 A. Yes, yes.

16 Q. The next paragraph where it says, "In the
17 year 2000, all students would begin working towards a
18 'certificate of mastery,' which they would receive at
19 age 16, to document their achievement." Do you see
20 that?

21 A. Yes.

22 Q. Could you flesh out the certificate of
23 mastery idea for me, please.

24 A. The certificate of mastery would be the
25 skills at age 16, which would have been the sophomore

(1) year in high school, that they would have the skills in
(2) reading, writing and math to go on and learn. The
(3) certificate of mastery never came into being.)

4 Q. You said "reading, writing and math."
5 Does that include science as well?

6 A. Actually, at that time we were talking
7 reading, writing and math is where we were going, and
8 science came later. Actually, started off listening,
9 reading, writing and math were the original four. And
10 science -- excuse me, listening dropped out and then
11 science was added. Even though it was one of the four
12 in this document, the thought by many of us was
13 reading, writing and math, and science was something
14 that was going to be a different ballgame.

(15) Q. The next page of Exhibit-735 states, "But
(16) Dorn and others in the House counter that the state
(17) needs to make a strong financial commitment now and
(18) start overhauling immediately." Do you see that?

(19) A. Yes.)

(20) Q. What kind of strong financial commitment
(21) and overhaul were you talking about?

(22) A. Well, we included in House Bill 1209 what
(23) we called SLIG, student learning achievement grants.)

(24) Q. Is that achievement or improvement?)

(25) A. Improvement, yeah, yeah, yeah.)

1 Improvement. I get all my acronyms confused
2 sometimes.

3 But we included money to do that so
4 schools would have days to plan and improve. We also
5 included mandatory teachers in the bill and then we
6 also included intern chips for principals in the bill
7 and we also included readiness to learn, it was about
8 \$5 million, and we also included, I believe we included
9 some technology grants per pupil to start on
10 technology. So there was funding for it, but there was
11 also -- on the other hand, there were no raises for
12 teachers. So it was about I think right around a
13 billion dollars for the bill.

14 Q. And sitting here today, do you believe the
15 state followed through over the years with the
16 financial commitment that was necessary to amply
17 provide the knowledge and skills stated in House Bill
18 1209?

19 A. What's been interesting to me through the
20 years, it seems like the legislature and local school
21 boards allowed that takeover of the responsibility,
22 allowed the expansion of local levies to take over the
23 responsibility of paying for it. Extra days, TRI
24 money, all those kinds of things that cost extra money,
25 it seemed like they allowed the local levies to take

1) more and more responsibility instead of the state
2) paying for it.

3) Q. And the "it" you're referring to are the
4) knowledge and skills set forth for example in the four
5) numbered paragraphs on Exhibit-217?

6) A. Yes, and some of the other things that
7) they did to take over the responsibility. Instead of
8) paying for extra days, they allowed waivers in the
9) 180-day school year to be used as planning days, which
10) I disagree with. I believe we should protect the
11) instructional time and have other time for teachers to
12) meet and plan.

13) Q. Okay. Just briefly, the waiver situation
14) you're talking about is currently the state statute
15) requires 180 days for instruction of students, correct?

16) A. That's correct.

17) Q. And the waivers you're referring to are
18) school districts often come to the state and say let me
19) have less than 180 days so I can use up those extra
20) days?

21) A. For improvement planning, curriculum
22) development, things of that nature.

23) Q. For teachers?

24) A. For teachers, yes.

25) Q. And this is --

1 A. That is given by the State Board of
2 Education.

3 Q. The planning days, are those what's
4 oftentimes referred to as learning improvement days?

5 A. Those planning days are considered
6 learning improvement days, yes.

7 (Exhibit-736 marked.)

8 Q. Handing you Exhibit-736, which is a
9 September 18, '07 piece from Crosscut by Chris Vance?

10 A. Uh-huh.

11 Q. At the bottom you'll see it refers to the
12 core group with respect to 1209 being you, several
13 others and he said he joined as a very junior member.
14 Do you see that? It's the top of the next page.

15 A. Yes.

16 Q. Do you recall what role, if any, Chris
17 Vance had in House Bill 1209?

18 A. Chris Vance was a member of the House
19 Education Committee and we met -- nonpartisan group of
20 people that wanted to meet and people that were
21 interested in knowing on a weekly basis what was going
22 on with the bill, and Chris attended regularly and he
23 was a member of the committee and attended those
24 meetings.

25 Q. On the second page, the third paragraph)

(1) down states, "HB 1209 defined a new 'performance-based'
(2) education system' as 'a system in which a significantly
(3) greater emphasis is placed on how well students are
(4) learning, and significantly less emphasis on state
(5) level laws and rules that dictate how instruction is to
(6) be provided.' The bill then set new 'learning goals'
(7) that would serve as the basis for the standards and
(8) assessments. All students would be expected to read
(9) with comprehension and write with skill, and know and
(10) apply core concepts of math, of social, physical and
(11) life sciences, of civics and history, and geography,
(12) arts, health and fitness." Do you see that?

(13) A. Yes.

(14) Q. Is that a fair summary of House Bill
(15) 1209's principal purpose?

(16) MR. CLARK: Object to the form of the
(17) question.

(18) A. I guess my point of view would be more
(19) that we were concentrating on reading and writing and
(20) math, the score concepts, reading, writing and math,
(21) and the other ones would be kind of determined by
(22) school districts or we would have set standards and
(23) they would have their own; that you weren't going to
(24) have a WASL for health and fitness, or for arts,
(25) although some people thought they were, but it was

1) really an assessment for reading, writing and math.
2) Well, listening got in there too, but that would be
3) more my point of view. But we wanted -- people were
4) going to set out what students should know per grade
5) level in these things and what teachers should aim for.

6) Q. What all students should know at grade
7) level, those were --

8) A. Yes.

9) Q. You're referring to the essential academic
10) learning requirements?

11) A. Yes.

12) Q. If I can ask you to turn to the next page,
13) second paragraph down starts, "HB 1209 set clear
14) deadlines. The essential academic learning
15) requirements for reading, writing and math were to be
16) in place by 1995, and for science, civics, history,
17) geography, arts, health, and fitness by 1996. The
18) tests for reading, writing, and math would begin the in
19) 1995-'96 school year and, for the other subjects the
20) next year. Action on deregulation and the new funding
21) model were supposed to occur during the 1995
22) legislative session. It was anticipated that all the
23) kinks would be worked out of the standards and
24) assessments by 2000, which is when all the
25) accountability measures - including the mandatory

1 graduation requirement - would take effect." Do you
2 see that?

3 A. Yeah.

4 Q. Is that a fair summary of House Bill 1209
5 or do you have differences?

6 A. I would say of the law.

7 Q. Of the law?

8 A. Yes.

9 Q. When you say "of the law," that's a fair
10 summary of House Bill 1209 as it was passed?

11 A. Correct.

12 Q. When it goes on to the next paragraph, it
13 says, "None of those deadlines was met. In fact, a
14 look at the core elements of the bill show that
15 virtually none of the reforms we passed ever actually
16 became a reality in the classroom." Do you see that?

17 A. I do see that.

18 Q. Do you believe that's true?

19 A. No.

20 Q. Again, how do you differ with that?

21 A. Well, I differ with that because I believe
22 the reforms, like if you just take a look at fifth
23 grade writing, 1993, I went around to like 10 different
24 schools and asked teachers, what are your expectations
25 for your students in fifth grade writing, and how do

1 you assess the writing in your classroom, and it was
2 kind of all over the board.)

3 And now if you went out there, well, this
4 was written in '07, I think in '07, if you went out in
5 the school system, you said what are the five quality
6 elements of good writing in the fifth grade and how do
7 you assess good writing, that I believe, I don't think
8 it would be perfect, but I believe it would be much,
9 much more consistent and better teaching skills on that
10 subject today, or two years ago when this was written,
11 than in 1993.)

12 So that was part of the reform, is to set
13 standards and so teachers had a way to look at
14 standards and improve. I think there was a lot of
15 professional development in writing in the beginning
16 and that's why I believe our scores have gotten, have
17 dramatically improved in writing. So that's where,
18 that would be an element of where I would disagree. So
19 that's where I'd stop.)

20 Q. All right. Going through comments you've
21 made as well, you've made a comment along the lines of,
22 when you're talking about the House Bill 1209 in 1993,
23 "We need to return to the original intent of those
24 reforms"?

25 A. Are you on this still?

1 Q. No, sir.

2 A. Okay.

3 Q. Actually, what I'm doing is I'm reading
4 from a proposal on the web.

5 A. I was just looking to see if it's on
6 there.

7 Q. It's under your bio. You're referring to
8 the 1209 in 1993, "We need to return to the original
9 intent of those reforms, that is, ensuring every
10 student regardless of their life course will graduate
11 from our public schools with the knowledge and skills
12 needed to be financially secure and to become good
13 citizens." Was that the original intent of 1209?

14 A. I believe so.

15 Q. When you're referring to become a good
16 citizen, what kind of elements of education relate to
17 being a good citizen?

18 A. Well, actually in the second, in the
19 second year there was some elements added to it, to
20 1209, and a lot of people didn't pay attention to them,
21 but they were about honesty, integrity, trust, you
22 know, civic duty, service, those kinds of things. That
23 I believe is about -- it's not just having the
24 knowledge and being educated. It's also the citizenry
25 and civics was a part of that. But that was part of

(1) the extra little part we put onto it in the second
(2) year.)

(3) Q. And that's part of the education that all
(4) citizens should have to meaningfully participate in our
(5) democracy?

(6) A. That would be a correct statement.)
(7) (Exhibits-737 and 738 marked.)

8 Q. Handing you Exhibit-737, which is an email
9 chain that was produced to us, originally it's from
10 Bryon Moore dated January 8, 2007, then filters down to
11 be a body of text with the heading, "Time is now for
12 new K-12 funding formula." Do you see that?

13 A. Uh-huh.

14 Q. On the second page right above the number
15 30 in the middle it says, "'Campus security,
16 technology and student health services are vital
17 components of safe, modern and healthy schools,' said
18 Randy Dorn, executive director of Public School
19 Employees of Washington. 'Essential services such as
20 this must be included in the definition of basic
21 education and paid for by the state, not local
22 levies.'" Do you see that?

23 A. Yes.

24 Q. Is that statement true? Do you believe
25 it's true?

1 mentioned something along the lines of parents believe
2 campus security is important?

3 A. Yes.

4 Q. Do you believe that campus security is
5 important to education in the public schools?

6 A. Yes, in the areas where it's needed. I
7 mean, it's not every campus is what I'm saying, but in
8 the campuses you need it, I believe it's important for
9 people to believe that their kids are safe.

10 Q. I'm sorry?

11 A. That's it.

12 Q. Do you believe that it's important for
13 kids to believe they're safe in their schools from an
14 academic perspective?

15 A. Yes.

16 Q. And with respect to student health
17 services, you mentioned student nurses. Do you believe
18 that having -- strike that. Not student nurses.

19 With respect to school nurses, do you
20 believe that school districts having school nurses is
21 important from an academic perspective to providing
22 kids an education in public schools?

23 A. I believe that having health services
24 available in the schools is important. I'm not -- I
25 don't know who has to be the employer, okay? So I'm

1 not saying you must have a school nurse hired by that
2 district, because some of them are, they have different
3 arrangements all over, but I believe it's important to
4 have health services available in the schools to meet
5 the needs of kids because that's where they are.

6 Q. And you believe that from an academic
7 perspective, it's important to have school nurses in
8 the schools?

9 A. I don't know for sure, you know, how that
10 affects them.

11 Q. Do you recognize what the text is on
12 Exhibit-737, after, "The time is now for new K-12
13 funding formula," several paragraphs, and then it
14 lists, you know, WSSDA, WASA, PSE is at the bottom
15 there?

16 A. Yeah.

17 Q. Can you explain what that was? Was this
18 like a press release or an announcement?

19 A. I believe this was, 2007, I believe this
20 was the coalition group coming together and showing
21 that we are working together on the issue of school
22 funding and it was a press release.

23 Q. And I noticed that on the -- it says at
24 the by-line "Olympia, January 4, 2006." Reading this,
25 do you believe that really was supposed to be 2007?

1 Q. We looked on Exhibit-738, it talks about,
2 "Fully fund the 1993 definition of basic education."
3 Do you see that?

4 A. Yes.

5 Q. Is that the goal here with Exhibit-738, is
6 to get the legislature to move forward with funding
7 what you need to provide kids with the knowledge and
8 skills that are specified in the essential academic
9 learning requirements?

10 MR. CLARK: Object to the form of the
11 question. There's no foundation.

12 A. I guess at that time I think these groups
13 were driving more with, although this was in the
14 background, I think it was more on the prototypical
15 school and actual staffing, to staff a school at a
16 quality level, this is what you need and the driver was
17 the prototypical school. I don't think it was having
18 to pay for this (indicating).

19 (Exhibit-739 marked.)

20 Q. Handing you Exhibit-739, would you
21 identify what this is and what the purpose of 739 is?

22 A. Okay. What's the date? January 28th,
23 '08. It was to raise the level of understanding that
24 we needed to fund the staffing for some of the new
25 positions that have come in to support personnel such

1 as technology, security, those elements of providing
2 enough services and tutorial for students.

3 Q. And tutorial, that would be the
4 para-educators?

5 A. Yes.

6 Q. A couple of paragraphs down it states,
7 "Custodians are critical in performing routine
8 maintenance on buildings and grounds, saving money on
9 repairs and keeping schools and campuses safe." Do you
10 see that?

11 A. Yes.

12 Q. Is that true?

13 A. Yes.

14 Q. How or why are custodians critical to
15 those jobs?

16 A. Well, if you don't keep your school
17 repaired and, you know, you have cracks in tile or tile
18 that comes up and kid trips and falls on the tile. So
19 you've always got to -- like on tables, the mylar comes
20 off and stuff, and then a kid cuts himself. You know,
21 all kind of repairs like that have to be done. And
22 then just the overall quality of air, changing filters,
23 keeping the air of quality, you know, making sure mold
24 doesn't get into your schools, you know, the unhealthy
25 building. It's all basically the maintenance and

1 competency of your maintenance people, keeping the
2 place sanitized.

3 Q. The next paragraph you talk about, "As
4 more students depend on schools to provide hot,
5 nutritious meals, our food service workers become more
6 vital." Do you see that?

7 A. Yes.

8 Q. Vital to what, education, just for feeding
9 kids?

10 A. Vital to the overall work of the schools,
11 because kids who don't get meals at home actually are,
12 their school is where they get their meals, sometimes
13 breakfasts, most of the time at least lunch.

14 Q. You're referring to the free and reduced
15 price lunches?

16 A. Yes. Free and reduced price lunches,
17 yes.

18 Q. And that includes breakfasts too
19 sometimes, right?

20 A. Yes.

21 Q. A little later, a few paragraphs on it
22 talks about, "security guards keep our kids and
23 campuses safe from drugs, gangs and other threats." Do
24 you see that?

25 A. Yes.

1 and that added a little over \$30 million to funding
2 support professional work.

3 Q. Does that solve the problem?

4 A. No, it doesn't solve the problem.

5 Q. Does it come close?

6 A. It definitely helped, but when you say
7 "close," it moves us a lot farther than the other 29
8 years, but no, I think there's more, there's more
9 resources needed.

10 (Exhibit-740 marked.)

11 Q. Handing you Exhibit-740, can you identify
12 what that is?

13 A. What this is?

14 Q. Yes, sir.

15 A. This is announcing the winners of the 36th
16 annual state art show.

17 Q. Is this a press release from your office?

18 A. Yes.

19 Q. Near the bottom of the first page there's
20 a quote that says, "'If we are dedicated to preparing
21 all students, we must be sure that all schools have
22 access to well rounded arts program,' Dorn said." Do
23 you see that?

24 A. Yes.

25 Q. What role do the arts supply in providing

(1) education to our public school kids, if any?

(2) A. I really believe that's one of the
(3) elements of an American education, is that we have a
(4) diverse type of education and you get to see things
(5) from different perspectives, and we expose students to
(6) different types of learning, and art is a different
(7) kind of avenue to look at things, and so I believe that
(8) everybody should be exposed at least to one class of
(9) art in middle school and high school, and it's always
(10) part of your grade school experience. But there's been
(11) a lot of pressure in the last few years on just
(12) academics and I believe it should be, there's other
(13) classes you learn things in too.

(14) Q. Art being one of them?

(15) A. Arts being one of them.

(16) Q. Would it be your belief that the arts are
(17) important from an academic perspective in our public
(18) schools?

(19) A. Arts are important on the academics.
(20) That's why we put it in 1209.

(21) Q. When you say "put it in 1209," you're
(22) referring to on 217, the know and apply core concepts
(23) and principles of...arts?

(24) A. Correct.

25 MR. AHEARNE: Next exhibit.

1 (Exhibit-741 marked.)

2 Q. Handing you Exhibit-741, this is a
3 February 27, 2009 release about a meeting you had with
4 federal Education Secretary Duncan, correct?

5 A. Correct.

6 Q. About halfway down the page it says, "Dorn
7 said the need for more money in Washington state is
8 obvious," and then there are several bullets. First,
9 you state, "Because of the state's budget crisis,
10 school districts are using 92 percent of their levy
11 capacity, while in the 1990s, they used only 75
12 percent." Do you see that?

13 A. Yes.

14 Q. Is that true?

15 A. Yes.

16 Q. Why is that significant? What's the point
17 you're making?

18 A. The point is that I think there is more
19 capacity in people's levies, but they're not able to
20 pass their levies at the high end of the capacity. You
21 know, they can't pass it at 31 percent.

22 Q. When you say that, you're talking about
23 districts that have a cap that allows them to go to 31
24 percent?

25 A. Correct.

Resp. objects - Witness did not and cannot authenticate document. Questions and testimony based on inadmissible hearsay. Lack of foundation. Resp. moves to strike.

Petitioners respond that testimony stands on its own; the Superintendent of Public Instruction's live testimony stated and confirmed the truth of the matters inquired about; motion to strike untimely; no motion or objection made during deposition.

Petitioners respond that this document is a release regarding the Superintendent of Public Instruction identified by the Superintendent of Public Instruction concerning education; publicly available document with website source information provided.

(1) Q. The next bullet you state, "Districts use
(2) local funds (largely levy funds) to subsidize basic
(3) education nonstaff operating costs (such as utilities,
(4) insurance, supplies, textbooks and curriculum) by
(5) \$544 million." Do you see that?

(6) A. Yes.

(7) Q. Is that true?

(8) A. Yes.

(9) Q. And that's \$544 million per biennium?

(10) A. Yes.

(11) Q. Next bullet where you state, "Districts
(12) subsidize pupil transportation by" --

(13) A. You know, when I said yes to this, I'm not
(14) sure. It could be per year. I don't know.

(15) Q. Okay. On the low end it's \$544 million
(16) per biennium?

(17) A. Yes.

(18) Q. On the high end, it will be \$544 million
(19) per year?

(20) A. Yes.

(21) Q. Okay. Then when the next bullet you
(22) state, "Districts subsidize basic education pupil
(23) transportation by \$125 million a year," is that true?

(24) A. Yes.

(25) Q. Is that annually?

1 A. Annually.

2 Q. Next you state, "Districts spend

3 \$153 million more than they receive from the state and
4 federal government for special education each year."

5 Do you see that?

6 A. Yes.

7 Q. Is that true?

8 A. Yes.

9 Q. Last you state, "The state still needs an
10 additional \$400 million annually to equalize salaries
11 among districts." Do you see that?

12 A. Yes.

13 Q. What do you mean by "equalize salaries
14 among districts"?

15 A. Well, there was a -- when we first did
16 compensation in the late '70s, we allowed certain
17 districts to be above the average and go above what we
18 call the LEAP schedule and so those districts have
19 continued to be above. And three years ago a number of
20 state representatives recognized that, and so they put
21 extra funding in the formula system to bring up a large
22 portion of the districts to a new kind of state
23 average, but still not to the average of I think it was
24 13 districts.

25 Then they also provided money to bring

1 A. Uh-huh.

2 Q. Is that, the \$150 million, the matching
3 grant program you were referring to a little earlier
4 today?

5 A. No, the \$434 million of bonds would be the
6 state portion and the \$150 million was what was
7 actually needed to meet the obligation. We needed more
8 money because more projects came through.)

9 Q. Okay. That was then money that the
10 legislature appropriated --

11 A. To meet the need, people have said, look,
12 our projects are done, we need the money from the
13 state. And we had already gotten the \$434 million, but
14 to actually meet the need at the state, we needed
15 \$150 million more. So they did a supplemental budget
16 in the capital to give us the \$150 million more.)

17 Q. Okay, and the need at the state you're
18 referring to, is that when school districts apply for
19 the matching?

20 A. Correct, the project is done and now they
21 need the money to pay their contractors.

22 Q. That's under the state rules, they say
23 school district, if you do certain things?

24 A. Yes.

25 Q. There are requirements, then we will pay

(1) you X dollars?

(2) A. Correct.

(3) Q. And the X dollar amount ended up being at
(4) this time frame \$150 million more than the state had
(5) for bonds?

(6) A. Correct.

(7) Q. The last line there's a paragraph, there's
(8) a reference to, "The state's school construction
(9) assistance program also includes a set-aside to provide
(10) public art for new facilities." Do you see that?

(11) A. Yes.

(12) Q. Could you explain why public art is part
(13) of the construction funding for new facilities?

(14) A. I believe our state goes along with
(15) federal law that 1 percent is set aside for -- not
(16) maybe 1 percent, that's too high.

(17) Q. Some percent?

(18) A. It's a percentage or something that goes
(19) to public art. When we build our elementary school, we
(20) had X amount of dollars to purchase public art and we
(21) had a community organization of what art they wanted
(22) put in the elementary school, what would be appropriate
(23) stuff.

(24) Q. Is that a state or a federal requirement
(25) for that public art?

1 (A.) You know, I'm not sure, to be honest with
2 you. I know there's a federal requirement. I'm pretty
3 sure there's a state retirement too, but one or the
4 other. I know probably not to put out an edict to say
5 don't do it.

6 MR. AHEARNE: Next exhibit.

7 (Exhibit-743 marked.)

8 (Q.) Handing you Exhibit-743, could you please
9 identify what it is and what its purpose is?

10 (A.) This was a memo put out to the legislature
11 to inform them that I was going to support -- I just
12 want to make sure.

13 (Q.) Last line refers to 1410 and 5444.

14 (A.) There I was supporting, basically what I
15 was wanting people to do was continue to work on 1410
16 and 5444, and continued that it was worth the effort to
17 keep moving it forward, because this was I believe one
18 of my five things that I wanted to work on, was basic
19 ed funding, and this was a way to, what I call kicking
20 the can forward and this was a way to do that. And I
21 was encouraging legislators that I would help if I
22 could be of assistance and gave some of my views on it.

23 (Q.) In the second paragraph, you state, "We
24 have had numerous studies on funding and they sit on
25 bookshelves gathering dust." Do you see that?

1 A. Yes.

2 Q. What are you referring to in that
3 sentence?

4 A. I'm referring to probably Washington
5 Learns and I'm probably referring to What Will It Take
6 by the WEA, through 1209 we had a couple of studies
7 too. And I believe that we do know where education is
8 today and we should move forward.)

9 Q. The last paragraph you state, "Education
10 today is facing a crisis, and I use the word 'crisis'
11 intentionally." Do you see that?

12 A. Uh-huh.

13 Q. Why do you say crisis?

14 A. Well, it was I believe because of the
15 economic status and health of our state and the federal
16 government that it was going to be difficult to fund
17 education, and I wanted to be sure that people knew
18 that that was still our priority. And we had more
19 districts than before that are on financial watch, and
20 I wanted people to understand that this isn't something
21 that's just going to go away and we can cross our
22 fingers. And without the federal stimulus, I think we
23 would have double the amount of districts that we have
24 today in financial crisis, because I don't think the
25 state would have been able to give the resources they

1 need.)

2 I think this is a time that we reset
3 government and we decide on what how much money we have
4 and what percentage of the money we're going to spend
5 on what, and I believe that education is our paramount
6 duty.)

7 Q. You go on and state, "Since the enactment
8 of HB 1209 in 1993, we have allowed state funding of
9 education to decline, both as a percentage of the state
10 budget, and in comparison to other states." Do you see
11 that?

12 A. Yes.

13 Q. Is that true?

14 A. Yes.

15 Q. Is that significant at all? What's the
16 significance of that statement?

17 A. I believe that this state has not put a
18 priority in the education system that they should have.

19 Q. That's consistent with your understanding
20 of ample and paramount duty?

21 A. I believe the state as compared to other
22 states has not moved as far along as they should have
23 in investing in parts of the system such as technology.

24 Q. Parts of the education system?

25 A. Yes, part of the education system.

Q. Then you go to be state, "As a state, adjusted for consumer price index (CPI), our funding per student has barely increased from \$4,187 in the mid 1990s to \$4,676 this year." Do you see that?

A. Yes.

Q. Is that true?

A. Yes.

Q. Is there any significance to that statement?

A. Again, in comparison to other states, we are towards the bottom 10. Through the '70s and '80s we were always in the high teens, and through the '90s we were in the low 20s, and we've slowly moved up to being 42nd as far as per pupil funding.

Q. When you said moving up, do you mean moving up or moving down?

A. We are moving up, which is not considered good. It's kind of like the top 25 in football. You kind of want to be number 1, not number 50th.

Q. Next page of Exhibit-743, second paragraph you state, "School districts have responded in the only way they could, by filling the gap with local levy dollars and drawing down reserves." Do you see that?

A. Yes.

Q. What's the gap you're referring to?

(1) (A.) The gap between state and local money, the
(2) gap between basic ed and what local dollars are now
(3) going to fill the gap of what is considered basic ed
(4) money.

5 Q. You say, "School districts have responded
6 in the only way they could, by filling the gap with
7 local levy dollars"?

8 A. Uh-huh.

9 Q. The gap you're referring to is the gap
10 between what the basic ed costs are and what the state
11 is funding?

12 A. Okay. What I was referring to, you have
13 your basic ed, what you have to pay for, and also what
14 federal is telling you to pay for, such as special
15 education, and we're using local dollars to fill that
16 gap that used to go for orchestra or activity buses
17 or --

18 Q. Enhancements?

19 A. -- enhancements. So you're leaving off
20 the enhancements to fill the actual gap of what are
21 requirements by federal and state dollars -- or federal
22 and state law.

23 Q. When you refer to "drawing down reserves,"
24 what are you referring to there? I'm talking this same
25 sentence, it says "School districts have responded in

1 (Discussion off the record.)

2 (Brief recess.)

3 (Exhibit-744 marked.)

4 Q. Handing you Exhibit-744, could you
5 identify what this is, please, and what the purpose of
6 this is?

7 A. I believe it was to again put pressure to
8 pass 2261 and to give the public a clear picture of
9 what's going on in our schools.

10 Q. And several lines down you state, "During
11 the past several years, we've put together a myriad of
12 studies that have determined that our school funding
13 formulas are inequitable and inadequate." Do you see
14 that?

15 A. Yes.

16 Q. Is that true?

17 A. Yes.

18 Q. And when you say "inequitable," what are
19 you referring to?

20 A. Well, some of the funding formulas, again,
21 like on teacher compensation, it's not that they're all
22 the same and that we fund them the same, whether it be
23 teaching compensation or administrative compensation or
24 even classified compensation. It's where they were at
25 in '78 that we figured it off of. And so three years

Resp. objects - Witness did not and cannot authenticate document. Questions and testimony based on inadmissible hearsay. Lack of foundation. Resp. moves to strike.

Petitioners respond that Tr. Ex. 483 is an article written by the Superintendent of Public Instruction and identified by the Superintendent of Public Instruction regarding K-12 education; publicly available document with website source information provided; testimony stands on its own; the Superintendent of Public Instruction's live testimony stated and confirmed the truth of the matters inquired about; motion to strike untimely; no motion or objection made in deposition

(1) ago, there was legislation to put money in the system
(2) to make them more equitable, but they're still
(3) inequitable.

(4) Q. What you're referring to is the snapshot
(5) that was taken back in the late '70s that has now
(6) resulted in what some people call the grandfathering
(7) issue?

(8) A. That's what we call it, is the
(9) grandfathering issue. There was an attempt to make it
(10) better, but it's still not all the way solved.

(11) Q. And when you say "inadequate," what are
(12) you referring to?

(13) A. That the funding that local levies were
(14) used for supplemental things, are now used for what I
(15) consider basic.

(16) Q. Basic education?

(17) A. Yes.

(18) Q. A few lines down you say, "Some might say,
(19) schools don't need more state money because of the
(20) federal stimulus funds. But much of the stimulus funds
(21) is tied to specific uses," and then you later note, "It
(22) can't be used to backfill state funding reductions."

(23) Do you see that?

(24) A. Yes.

(25) Q. Could you tell me generally what you're

(1) referring to with respect to not being able to use the
(2) federal funds to backfill state funding reductions?

(3) A. Well, it depends on which stimulus funds
(4) you're talking about, okay? So if you're talking about
(5) the increase in federal support for Title I, it still
(6) needs to be used in Title I. And if you're looking at
(7) special ed funds, it had to be used in special ed.
(8) Then there were some stimulus dollars that we used to
(9) backfill basic ed in the state. So those were used for
(10) whatever you wanted to use it for. But some had
(11) specific requirements in them and so you couldn't --
(12) it's not total flexible dollars.)

(13) Q. Is the point that at least some of the
(14) federal money has strings attached so you can't do with
(15) it whatever you want?

(16) A. Yes.)

(17) Q. And some of it is tied to this supplement
(18) but not supplant requirement?

(19) A. Correct.)

(20) Q. So if X dollars is coming in from the fed,
(21) it's not that the state has free flexibility with it?

(22) A. Correct, it's not free flexibility.)

(23) Q. Okay. The reason I'm taking my time here
(24) is a lot of the questions I was going to ask in this,
(25) we've gone through already, so I'm not going to waste

1 your time going through it a second time.

2 A. Okay.

3 (Exhibit-745 marked.)

4 Q. Although I know you've been handed
5 Exhibit-745, I have one question before that.)

6 A. Uh-huh.)

7 Q. Because I'm looking at a July 13, 2009
8 article and the comment is, "Gregoire said Washington
9 may not be able to compete for the first round and thus
10 Race to the Top. However Gregoire said she and state
11 school Superintendent Randy Dorn are working on a
12 proposal with legislative changes early next year that
13 could put the state in a better position to compete for
14 a second round of those grants." Could you tell me
15 what that is referring to, the second round?)

16 A. When was that?)

17 Q. Here, without waiving any privilege, I'm
18 just going to show you a July 13 article.)

19 A. From the Seattle --

20 Q. I'm just trying to understand what's being
21 talked about here with the second round of grants and
22 changing legislation?)

23 A. The first round of grants is going to be
24 awarded this December and there's been a myriad of
25 changes, a whole bunch of changes from federal from the

(1) first time to over the last six months of how this
(2) whole grant thing is going to happen. First, it was
(3) going to be half and half. Then it was 10 percent/90
(4) percent would be granted, and now it's going to be
(5) whoever has a really good grant will get it.)

(6) But the Obama administration and Arnie
(7) Duncan have talked at length and there's been lots of
(8) press articles about it, that states that basically
(9) they believe that some form of charter school is a good
(10) thing, and they believe some kind of differential pay
(11) for teachers is a good thing. And so if you don't have
(12) those things, or if you have legislation that does not
(13) allow longitudinal data to follow teachers and
(14) students, that that would not be a good thing. And
(15) some states have or don't have those things. So you
(16) have a checklist you're going to have to answer to, and
(17) I believe the governor is referring to possibly some
(18) kind of adjustment in the future.

(19) Q. Adjustment to Washington state laws to
(20) make it so we fit what the federal grants say are good
(21) things?

(22) A. Or at least adjustment that would make it
(23) more palatable. We've had discussions about it.)

(24) Q. Okay. Now turning to Exhibit-745, could
(25) you identify what this is?

(1) A. This is the state application for the
(2) stabilization funds from the feds.

(3) Q. If you look at the second page, that's
(4) your signature at the bottom?

(5) A. Yes.

(6) Q. When you say the stabilization funds,
(7) these are the federal funds in the first round?

(8) A. Yes. Well, okay.

(9) Q. That's why I'm --

(10) A. Okay. This is --

(11) Q. 745?

(12) A. Okay. Yes, 745 is an application for
(13) stabilization funds. What I just talked about is what
(14) they call Race to the Top, which is innovation. It's
(15) four assurances: It's data, longitudinal data; it's
(16) teacher improvement; dropout, achievement gap; and --
(17) I'm missing one other.

(18) Q. One other?

(19) A. Yeah. So those are two separate things.

(20) Q. 745 relates to?

(21) A. The stabilization money that came during
(22) the legislative session that the legislature was able
(23) to use to fill the state budget gap.

(24) Q. In the '09-'11 biennium budget?

(25) A. Correct. And what the governor referred

1 to --

2 Q. In the newspaper article with the Race to
3 the Top fund?

4 A. -- is the Race to the Top funds.

5 Q. Is separate?

6 A. Yeah, separate.

7 (Exhibit-746 marked.)

8 Q. Could you please identify what Exhibit-746
9 is, what its purpose was?

10 A. This was another letter to encourage the
11 further work on 2261, and some of the changes that I
12 thought needed to be made or worked on that would be
13 important to have agreements on.

14 Q. On Agreements near the end, there are
15 several bullets and the first bullet has some thank
16 yous and one was for including full-day kindergarten.
17 Do you see that?

18 A. Yes.

19 Q. What's the significance of full-day
20 kindergarten to the education our public schools
21 provide?

22 A. I believe that having the opportunity for
23 kids to have a full-day kindergarten is that we have
24 the ability to help kids get a quality start in their
25 education and all the significant skills. If there's

1 deficits in their early learning, then we could address
2 them in that year and so they're ready to read in the
3 first grade.

4 Q. And second, when it refers to "early
5 learning for our most disadvantaged students," is that
6 in addition then to just the full-day kindergarten?

7 A. Yes, that would be before they get to
8 kindergarten, that our most disadvantaged schools, it
9 was shown that a quality early learning program helped
10 those students get to the level so they're ready to
11 come into kindergarten and first grade.

12 Q. Then it talks about "highly capable
13 funding (with the fix for current funding levels)." Do
14 you see that?

15 A. Yes.

16 Q. My first question is: Does the
17 parenthetical "with the fix" apply to "highly capable"
18 or everything in that bullet?

19 A. The highly capable funding was a fix.
20 It's a sliver for highly gifted kids be included in the
21 definition.

22 Q. And is the provision of highly capable
23 education important to the academics that the public
24 schools provide?

25 MR. CLARK: Object to the form of the

1 question.

2 A. I'm not sure.

3 Q. But the early learning part and the high
4 capable part was two that the governor vetoed from
5 2261; is that correct?

6 A. Say that one more time.

7 Q. The early learning part and the highly
8 capable part, are those the two parts of 2261 that the
9 governor vetoed?

10 A. I'm sure about the early learning part and
11 I'm pretty sure about the highly capable part. I mean,
12 there's been a lot more said about the early learning
13 part.

14 Q. Handing you two exhibits from the prior
15 deposition, handing you Exhibit-3011, which was the
16 color time line from the House Education Committee/OPR
17 for 2261 time line, and then simply to make it so we
18 don't have all those different colors boxes, handing
19 you Exhibit-3012. Which is each box taken and
20 separated on a separate page, so if I can ask you to
21 look at 3012, please.)

22 MR. CLARK: I'm going to have to look at
23 them too.

24 MR. AHEARNE: I didn't have an extra copy
25 of that one, Bill. Especially since I'm working on my

Tr. Ex. 591 (Dep.
Ex. 3011) admitted
9/9/09

1 noon deadline here, I'm going to just refer to several
2 pages and then ask a general question to Superintendent
3 Dorn.

(4) Q. There are several steps or milestones
(5) under 2261 that are listed in Exhibit-3012 and I'll
(6) just point some out. On page 1, there's the OSPI -
(7) Data, "Gap analysis on K-12 data collection."

(8) A. Okay, this is page 1? It says page 2.)

(9) Q. Page 1 of Exhibit-3012.)

(10) A. Yeah, uh-huh.)

(11) Q. Then page 2, there's a Funding Work Group
(12) that includes SPI.)

(13) A. Yes.)

(14) Q. If you go on to page 4, there's, "Rules
(15) and progress on implementing/testing," including OSPI.)

(16) If you go on to page 12, there's, "Local
(17) finance work group," with OFM and SPI.)

(18) A. Yes.)

(19) Q. Page 14, "Early learning work group," with
(20) SPI and DEL. That's Department of Early Learning,
(21) correct?)

(22) A. Uh-huh, yes.)

(23) Q. Page 25, "Compensation work group," with
(24) OFM and SPI?)

(25) A. Yes.)

1 Q. Page 29, there's OSPI, "Biennium system
2 capacity determination"?)

3 A. Yes.

4 Q. And in the interests of time, I won't go
5 through every single page here, but can you give me a
6 rough understanding of what you believe OSPI's
7 involvement or role is going to be as 2261 is actually
8 implemented over the course of the next whatever years
9 it is until 2018?

10 A. We'll provide the staffing for those
11 committees and the expertise. There was some funding
12 in the legislation to hire a couple of people to staff
13 those different --

14 Q. The work groups?

15 A. The different work groups so that you have
16 somebody preparing and you hire somebody that is an
17 expert in compensation and can do the tables and things
18 of that nature to do the research and data gathering.

19 Q. And is it your understanding that OSPI
20 will be providing staffing to these work groups?

21 A. Yes.

22 Q. And then the work groups will be coming up
23 with recommendations?

24 A. Correct.

25 Q. And then the work groups report those

(1) recommendations to the legislature for action?)

(2) A. If the recommendations are supported, yes,
(3) they would give it to the overall council to look at.)

(4) Q. That's the Quality Council?)

(5) A. Correct.)

(6) Q. And what does the Quality Council do when
(7) they get the recommendations from the various work
(8) groups of 2261?)

(9) A. I believe they will look at it, discuss
(10) it, hear from different groups, hold public hearing and
(11) then make eventually a recommendation to the
(12) legislature.)

(13) Q. And then the legislature just adopts it or
(14) they --)

(15) A. The legislature would have to form
(16) legislation, pass legislation. It would have to go
(17) through the same process as any other law, through
(18) committee and through floor action and then eventually
(19) to the governor's desk.)

(20) Q. Like 2261 did, it started with the Basic
(21) Education Finance Task Force, eventually became 2261,
(22) went to the governor's desk, who signed parts and
(23) vetoed parts, and then it becomes the law?)

(24) A. Correct.)

25 MR. AHEARNE: Next exhibit.

1 (Exhibit-747 marked.)

2 Q. Handing you Exhibit-747 and I'm not going
3 to ask you a lot of detailed questions on this, I was
4 just wondering, can you identify what this is and what
5 its purpose is, this legislature session wrapup
6 document?

7 A. Yes. What it is is we do -- our
8 government relations department does a wrapup and kind
9 of a small paragraph, one liner on what certain bills
10 passed, what did they do, and kind of giving districts
11 a heads-up on what they do.

12 Q. And is this like a PowerPoint that's given
13 to school districts and others?

14 A. Yes. We go around to the ESDs and give
15 them a presentation.

16 Q. And that presentation would be
17 Exhibit-747?

18 A. Yes.

19 Q. Okay.

20 (Exhibits-748 and 749 marked.)

21 Q. Handing you Exhibit-748 and 749, could you
22 identify what these are and what their purpose is? I
23 mean, it appeared to me that one --

24 A. I believe this is comparisons between the
25 governor's budget, the Senate budget and the House

1 budget on the pluses and minuses of the three budgets.

2 Q. Okay, and is the April 31 the budget as
3 passed?

4 A. Your --

5 Q. Exhibit-749? Let me back up and take a
6 few steps back.

7 A. I'm on 748.

8 Q. Let's take it one at a time.

9 A. Okay.

10 Q. Exhibit-748 is a March 31 PowerPoint
11 presentation, correct?

12 A. Yes.

13 Q. What's the purpose of 748?

14 A. 748 was to show the differences between
15 the governor's budget, the Senate budget and the House
16 budget.

17 Q. Let's go to 749.

18 A. Okay.

(19) Q. What's the Exhibit-749 and its purpose?

(20) A. This would be to show what is the funding
(21) in the '09 to basically '09-'10 biennial budget and
(22) what the actual funding levels are in the budget.)

(23) Q. And 749 is the budget as actually passed?

(24) A. As actually passed, yes.)

25 (Exhibit-750 marked.)

1 (Q.) (Handing you Exhibit-750, which has small)
2 type but the biggest I can get it to print off the OSPI
3 website here.)

4 (A.) No problem.)

5 (Q.) Could you identify what Exhibit-750 is and
6 what its purpose is?

7 (A.) The purpose is basically, to set basically
8 the '08-'09 current funding and then set the projected
9 funding level if it stayed the same, and then the
10 governor's budget, the Senate budget, the House budget
11 and then a comparison to the actual final budget.

12 (Q.) And when it says final budget, that's the
13 final budget that --

14 (A.) Passed.)

15 (Q.) For the '09-'11 biennium?)

16 (A.) Correct.)

17 (Exhibit-751 marked.)

18 (Q.) (Handing you Exhibit-751, could you)
19 identify what this document is and just its general
20 purpose?

21 (A.) (The general purpose is the reporting of
22 the fiscal year September 1, '07 to '08. So it's the
23 school year of '07-'08 and school districts and
24 educational service districts reporting their final
25 summary.)

1 Q. And I noticed this is dated March of 2009?

2 A. Yes, it is.

3 Q. And is it routine that a report like this
4 comes out in about March of each year for the prior
5 school year?

6 A. Yes.

7 (Discussion off the record.)

8 MR. AHEARNE: Back on the record.

9 Q. I've got two exhibits here, and I'll tell
10 you what they are and then I'm going to have a few
11 follow-up questions. One are the OSPI Washington state
12 report cards for calendar year or school year '07-'08
13 and the other is for '06-'07.

14 (Exhibits-752 and 753 marked.)

15 Q. We'll take these one at a time. Handing
16 you Exhibit-752, I'll tell you what this is. This is,
17 you'll see we went to the OSPI website and printed out
18 the state-wide Washington state report cards, and then
19 the tabs 1 through 13 are for each of the focus school
20 districts in this case, starting with Battle Ground,
21 Bethel, et cetera.

22 My question is: Why does OSPI publish
23 these Washington state report cards, and why does it
24 break it down by school district and school and things
25 like that?

1 A. Well, part of it was that we required a
2 report card, this legislature required a report card so
3 we knew where districts are in disseminating
4 information out to the public. It was part of the
5 accountability idea, that we were going to hold
6 districts accountable, we had to be honest with the
7 public how we were learning. And it was the idea that
8 we would, it would force some competition and improve
9 student learning.

10 Q. And what's the thought behind going down,
11 drilling down to, for example, like the school level as
12 opposed to just going to the school district level?

13 A. Because there would be differences from
14 school to school. There was actually, I mean, if you
15 just looked generally in the school district, one side
16 of one district may be a highly mobile, poverty student
17 population and then on the other side of the district
18 there may be a middle class, wealthier end of the
19 district that is low mobile. So there's differences in
20 student population, and looking at learning trends and
21 things like that, so there would be different types of
22 learning curriculum and stuff that would address
23 students' needs better from school to school. So
24 that's why.

25 Q. And 752 was put out on your watch, that's

1 '07-'08 school year, superintendent of public
2 instruction, Superintendent Randy Dorn, correct?

3 A. Yes.

4 Q. And the second one also says
5 Superintendent Randy Dorn. Are all of these report
6 cards, now that you are superintendent, do they list
7 you as the --

8 A. I guess they change it to present, that
9 I'm here now so they're under my watch now.

10 Q. Presenting these Washington state report
11 cards, is this something that at least currently you
12 plan on continuing in the future?

13 A. We plan on currently continuing it, but of
14 course we're looking at changing the assessment system
15 so hopefully it may be a little easier, because we
16 believe the assessment system will eventually be online
17 and we can do this in a more efficient manner and it's
18 a quicker manner, get them out earlier.

19 Q. You said a while ago, talked about the new
20 assessment system. Could you give me a brief
21 description of your plans for what the new assessment
22 system is going to look like?

23 A. After four years, we know we're going to
24 have to transition into the new assessment system. So
25 next year, the next year, fifth, sixth and seventh grade

(1) schools, middle school, we're hoping to get 20 percent
(2) of them to participate online, work out some of the
(3) bugs on that. The next year we are hoping to expand
(4) that to more and probably down to the fifth grade. We
(5) have a belief, we're three through eight grades, and
(6) then tenth grade testing. There's some discussion that
(7) third graders may not be ready to keyboard, but fourth
(8) graders, people are kind of comfortable with them.
(9) Fifth grade for sure. So we would like to move in that
(10) direction.)

(11) And then we have to go a little slower
(12) with the high school proficiency test because that's
(13) more of a high stakes test. We have to make sure the
(14) line is accurate so we have to do some test pilots.)

(15) The goal is by 2012, that everybody would
(16) be online except for people that had some difficulty,
(17) you know, not having broadband and still having dial-up
(18) and things like that. But we believe by 2012, we would
(19) have over 90 percent of the schools online on the
(20) assessment system.)

(21) Q. In this interim period, so, for example,
(22) I'm making dates and numbers up, so two years from now
(23) will it be that some schools are on the new assessment
(24) system and others are on the old traditional WASL
(25) system?)

(1) A. No.)

(2) Q. That's what I'm trying to figure out.)

(3) A. The answer is no. The last assessment of
(4) the WASL will be in August of this year.)

(5) Q. Of 2009?)

(6) A. Of 2009. Then the new assessment will be
(7) used in three through eighth grade and tenth grade, but
(8) it will be paper and pencil.)

(9) Q. Got it.)

(10) A. Got it, okay.)

(11) Q. And approximately when do you know in the
(12) year are these report cards put out? So the most
(13) recent one we have is for the '07-'08 school year. Do
(14) you know approximately when they will be coming out for
(15) the '08-'09 school year?)

(16) A. Probably will be the same time. Most
(17) people will be on the paper and pencil. The same time
(18) it came out this year. Our hope is we can dramatically
(19) reduce that by three or four months when we go online.)

(20) Q. When everybody is online, these things
(21) will come out a lot quicker?)

(22) A. Yes.)

23 MR. AHEARNE: My last set of exhibits, we
24 can go off the record.

25 (Discussion off the record.)

1 (Exhibits-754 through 762 marked.)

2 MR. AHEARNE: I think what makes sense,

3 Bill, is for me to go through these group by group.

4 Q. First, handing you Exhibit-754, which is,

5 the cover page is the web page from

6 fiscal.wa.gov/kl2.aspx and then there are pages

7 afterwards which are the state-wide figures, and tabs 1

8 through 13, which are the 13 focus districts in this

9 case?

10 A. Yes.

11 Q. The first question I have on this exhibit,

12 you notice on the first page, it talks about K-12

13 education data displayed here are based on data from

14 the Office of the Superintendent of Public Instruction

15 school apportionment and financial services reports.

16 Do you see that?

17 A. Yes.

18 Q. And could you briefly explain what the

19 Office of the Superintendent of Public Instruction

20 school apportionment and financial services part of

21 OSPI does?

22 A. Yes. They distributed the state, federal

23 funds on a formula that has been, that's by law the

24 formula that they distribute the funds. And when you

25 say apportionment, it's on a monthly basis that they

1 get it out on 12 equal -- not equal, but 12 payments.

2 Q. Exhibit-754 is the one that is for the
3 K-12 workload staffing and finance reports, correct?

4 A. Uh-huh, yes.

5 Q. I'm going to hand you Exhibit-755 and is
6 this report and corresponding one for K-12
7 expenditures?

8 A. Yes, sir.

9 Q. And again we have the same tabs for
10 various school districts?

11 A. Correct.

12 Q. Battle Ground, Bethel, et cetera?

13 A. Uh-huh, yes.

14 Q. 756, does this list expenditures by
15 program, general purpose, special purpose program?

16 A. Yes.

17 Q. Then Exhibit-757, is this the expenditure
18 by program report for the year 2006-2007?

19 A. Correct.

20 Q. And is Exhibit-758 that same report but
21 for the school year 2007-2008?

22 A. Yes.

23 Q. And is Exhibit-259 the same report but for
24 the school year 2008-2009?

25 A. Yes.

(1) Q. And the last set, Exhibit-760, would this
(2) be K-12 revenue by group report for the school year
(3) 2006-'07?

(4) A. Yes.

(5) Q. Is Exhibit-761 the same report but for the
(6) '07-'08 school year?

(7) A. Uh-huh, yes.

(8) Q. And last, is Exhibit-762 the same report
(9) but for the '08-'09 school year?

(10) A. Yes.

(11) Q. Now, do you know what OSPI's role was in
(12) coordinating these reports which are Exhibits-754
(13) through Exhibit-762?

(14) A. We are the lead agency, that it's our role
(15) and responsibility to provide these reports to the
(16) public and to the legislature.

(17) Q. What is the purpose for providing these
(18) reports to the public?

(19) A. The purpose is so there's accurate
(20) reporting and accountability for expenditures of funds
(21) and, you know, not only expenditure of funds, but for
(22) getting the funds and receiving funds and then paying
(23) out, and so there's an accurate account, a check for
(24) the local district to the state.

(25) Q. And is part of the purpose to accurately

1 explain to the public how the public funds are being
2 spent?

3 A. Yes.

4 Q. Did you do anything to get ready for
5 today's deposition?

6 A. I had a conversation with (indicating).

7 Q. With your counsel, Mr. Clark?

8 A. Yes.

9 Q. Without telling me what you said,
10 approximately how long did you speak with Mr. Clark?

11 A. About 50 minutes.

12 Q. Did you review any documents in
13 preparation for today's deposition?

14 A. No.

15 Q. Have you talked to anybody other than your
16 attorney about this deposition?

17 A. We had Ken Kanikeberg in the room at the
18 time, who is my chief of staff, who has been a guy that
19 I've known forever through this whole thing. When I
20 say "this whole thing," I mean since I came to Olympia
21 in '87.

22 Q. As a young legislator?

23 A. Yes.

24 Q. Okay. Other than your chief of staff and
25 Mr. Clark, have you talked to anybody about this

1 deposition?

2 A. No.

3 Q. Have you talked to anybody about this
4 lawsuit?

5 A. More in general terms, you know. I mean,
6 people say there's a lawsuit going on up on the hill,
7 what do you think about the lawsuit or something, you
8 know, just kind of general comments, not like in depth
9 about it, but just conversation, what do you think is
10 going to happen? And I said that's like betting on a
11 game, you got a 50/50 chance.

12 Q. Do you have a general understanding of
13 what the lawsuit is about?

14 A. I believe so, yes.

15 Q. What's your general understanding?

16 A. I believe my general understanding is that
17 districts believe that districts have not been meeting
18 the constitutional obligation, and that the schools are
19 underfunded to perform the duties they're asked to do
20 today.

21 Q. And when you said districts aren't meeting
22 the constitutional obligation, did you mean the state
23 is not meeting the state's obligation?

24 A. It's the districts believe that the state
25 is not meeting its constitutional obligation and they

Resp. objects - Calls
for legal conclusion

Petitioners respond that the question does not call for a
legal conclusion; it asks for the Superintendent of
Public Instruction's belief as the Superintendent of
Public Instruction.

1 feel that there's more resources needed to meet that
2 responsibility.

3 Q. Do you believe that as well?

4 MR. CLARK: Object to form.

5 A. I believe, and I've stated numerous times
6 that I believe that we are not, we are leaving students
7 out that need services, and that there are areas the
8 state has not funded, because a lot of times they
9 didn't exist in the late '70s, so such things as
10 technology, security and tutorial and so -- and
11 health. There's a number of things that we're asked to
12 do today I don't believe we're funding.

13 Q. As part of basic education?

14 A. Yes.

15 Q. When you say things that we have to do
16 today that the state isn't funding, are you referring
17 to things that need to be done to amply provide all
18 children an education?

19 A. With a 21st century education.

20 MR. CLARK: Object to the form.

21 MR. AHEARNE: Thank you. I have no
22 further questions.

23 MR. CLARK: I have no questions today.

24 (Deposition concluded at 12:05 p.m.)

25 (Signature reserved.)

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SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MATHEW & STEPHANIE McCLEARY,)
on their own behalf and on)
behalf of KELSEY & CARTER)
McCLEARY, their two)
children in Washington's) No. 07-2-02323-2 SEA
public schools; et al.,)
Petitioners,)
vs.)
STATE OF WASHINGTON,)
Respondent.)

COPY

Original Signature Page and Change Sheet to the
DEPOSITION UPON ORAL EXAMINATION

OF

RANDOLPH I. DORN

9:03 a.m.

July 27, 2009

600 Washington

Olympia, Washington

Margaret Walkky, CCR, RPR, RMR, CRR

Court Reporter, License No. 2540

1 DATE: 8.26.09

2
3 THOMAS AHEARNE
4 Foster Pepper
5 1111 Third Ave, Ste 3400
6 Seattle, Washington 98101

7 NOTICE RE CHANGES TO ORIGINAL DEPOSITION

8 Case Name: McCleary v. State of WA
9 Venue: KCSC
10 Cause No.: No. 07-2-02323-2 SEA
11 Witness: RANDOLPH I. DORN
12 Taken: July 27, 2009

13 Enclosed is a copy of the changes made to the
14 above-referenced original deposition
15 transcript.


16
17 Margaret Walkky

18 cc: File
19 WILLIAM CLARK

S I G N A T U R E

I declare under penalty of perjury
under the laws of the State of Washington that I have
read my within deposition, and the same is true and
accurate, save and except for changes and/or
corrections, if any, as indicated by me on the CHANGE
SHEET page hereof.

Signed in. OlympiaWA on
the 13th day of August, 2009.



RANDOLPH I. DORN

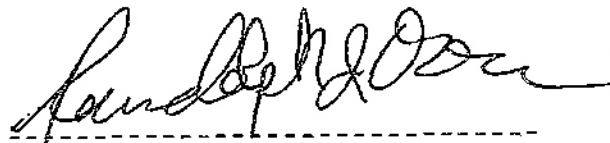
Taken: July 27, 2009

Reporter: Margaret Walkky

CHANGE SHEET

PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET,
SHOWING PAGE, LINE AND REASON.

| PAGE | LINE | CORRECTION AND REASON |
|------|------|------------------------------------|
| 16 | 13 | Should be <u>K12</u> Not K1 |
| 17 | 13 | Should be <u>WEA</u> NOT WPA |
| 67 | 6 | <u>INTERNSHIPS</u> NOT Internships |
| 93 | 3 | Requirement NOT Retirement |



RANDOLPH I. DORN

TAKEN: July 27, 2009

Re: McCleary v. State of WA, No. 07-2-02323-2 SEA
Reporter: Margaret Walkky